



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 14]
No.14]

नई दिल्ली, मार्च 29—अप्रैल 04, 2015, शनिवार/चैत्र 08—चैत्र 14, 1937
NEW DELHI, MARCH 29—APRIL 04, 2015, SATURDAY/CHAITRA 08—CHAITRA 14, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय
(सीपीवी प्रभाग)

नई दिल्ली, 31 मार्च, 2015

का.आ. 630.—राजनयिक और कांसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में केन्द्र सरकार द्वारा श्री हीरा मनी, निम्न श्रेणी लिपिक, और श्री महेश चंदर, निम्न श्रेणी लिपिक, को 31 मार्च, 2015 से भारत के कोंसुलावास, जेद्दाह, में सहायक कोंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/2015]

प्रकाश चंद, उप सचिव (कोंसुलर)

MINISTRY OF EXTERNAL AFFAIRS
(CPV DIVISION)

New Delhi, the 31st March, 2015

S.O. 630.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri Hira Mani, LDC and Shri Mahesh Chander LDC, in Consulate General of India, Jeddah to perform the duties of Assistant Consular Officer with effect from 31st March, 2015

[No. T. 4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 27 मार्च, 2015

का.आ. 631.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं./भाग/खण्ड/वर्ष
1	2	3	4	5	6
1.	2894279	04/07/2014	न्यू एज फायर प्रोटेक्शन इण्डस्ट्रीज प्रा.लि., सर्वे सं. 5 एवं 6, तकाई अदोशी रोड, विलेज होनद, तालुका खालापुर रायगढ़, महाराष्ट्र-410 203	एक्सप्लोसिव एटमोस्फिअर्स-भाग-1 फलेमप्रूफ इनक्लोजर 'डी' द्वारा उपस्कर संरक्षा	भा.मा./आयईसी 60079: भाग-1 2007
2.	2898186	08/07/2014	झेनीथ मेटाप्लास्ट प्रा.लि., ई-18, एमआयडीसी, मालेगाँव सिन्नर, जिला: नासिक-422103	सिंचाई उपस्कर-उत्सर्जक	भा मा 13487 : 1992
3.	2898085	10/07/2014	किसान मोल्लिंग लि., सर्वे सं. 63/1, 64/1, 70, 71, 72, महागाँव, बोइसर पूर्व पालघर, जिला: थाने-401506	दूध नॉन-मेटलीक नलिकाओं के लिए फिटिंग्स	भा मा 3419 1988
4.	2898287	10/07/2014	कोना इलेक्ट्रीकल सोल्यूशन्स, गाला सं. 10,11,12 एवं 13 गांधी इण्ड. ईस्टेट, सफेद पूल अंधेरी पूर्व, मुंबई-400093	घरेलु और समान प्रयोजनों के लिए स्विच	भा. मा. 3854 : 1997
5.	2898388	15/07/2014	स्कोडा केबल्स, गाला सं. 9 एवं 19, मुकादम कंपाउण्ड (पिंपलकर कंपाउण्ड), फिल्मसीटी रोड, गोमुलधाम, मालाड पूर्व, मुंबई-400097	1100 वोल्ट तक कार्यकारी वोल्टता के लिए पी वी सी रोधित (भारी ड्यूटी) विद्युत केबल	भा. मा. 1554 (भाग 1) : 1988
6.	2898489	16/07/2014	श्री कृष्णाश्रेय इं. प्रा.लि., प्लॉट सं. 8, सर्वे सं. 200/1, डी (8) एवं प्लॉट सं. 9, सर्वे सं. 200/1-ई, (9), पांचाल उद्योग नगर, भीमपूर, नानी दमन-396201	इलेक्ट्रॉनिक टाइप पंखा रेगुलेटर	भा. मा. 11037 : 1984
7.	2899693	22/07/2014	गोमेक इलेक्ट्रीकल प्रा.लि., बिल्डिंग सं. ए 17, गाला सं. 2 प्रितेश कॉम्प्लेक्स, ओवली विलेज दापोडे रोड, भिवंडी जिला थाणे-421308	विद्युत प्रयोजनों के लिए दाब सुग्राही आसंजनशील विद्युतरधी टेप-भाग 3: अलग अलग सामग्रियों की अपेक्षाएं खंड 1: अ तापमापी आसंजनशील वाले सुघट्यत पौलीविनाइलक्लोराइड टेप	भा. मा. 7809 (भाग 3) : खंड 1: 1986
8.	2900854	22/07/2014	किमप्लास पाईपिंग सिस्टम लि., बी 20 एमआयडीसी अंबाड, नासिक-422010 महाराष्ट्र	सिंचाई उपकरण हाईड्रोसाइक्लॉन फिल्टर, 50 मिमी व्यास	भा. मा. 14743 : 1999

1	2	3	4	5	6
9.	2901856	22/07/2014	भैरव इण्डस्ट्रीज, प्लॉट सं. 24/बी, गोल्डन इण्ड., इस्टेट सोमनाथ रोड, दाबेल, दमन दमन एवं दीव -396210	घरेलू और समान प्रयोजनों के लिए स्विच	भा. मा. 3854 : 1997
10.	2901351	23/07/2014	पॉलीकॉब वायर प्रा. लि., 78 72, सिलवर इण्ड. इस्टेट, भीमपोर, दमन, जिला दमन -396210	शिरोपरि प्रेषण प्रयोजनों के लिए एल्यूमिनियम चालक-भाग-1, एल्यूमिनियम लडदार चालक	भा. मा. 398 भाग 1 : 1996
11.	2901452	24/07/2014	पॉलीकॉब वायर प्रा. लि., 78 72, सिलवर इण्ड. इस्टेट, भीमपोर, दमन, जिला दमन-396210	शिरोपरि प्रेषण प्रयोजनों के लिए एल्यूमिनियम चालक-भाग-2, एल्यूमिनियम चालक, जस्तीकृत इस्पात प्रबलित	भा. मा. 398 भाग 2 : 1996
12.	2899996	24/07/2014	किसान मोल्टिंग लिमिटेड, सर्वे सं. 70, 71, 72, 63/1, 64/1 विलेज महागांव, बोईसर पूर्व, पालघर, जिला थाने-401506	सिंचाई उपस्कर-उत्सर्जन पाईप प्रणाली	भा. मा. 13488 : 2008
13.	2900046	24/07/2014	किसान मोल्टिंग लिमिटेड, सर्वे सं. 70, 71, 72, 63/1, 64/1 विलेज महागांव, बोईसर पूर्व, पालघर, जिला थाने -401506	सिंचाई उपस्कर-सिंचाई लैटरलों हेतु पॉलीथिलीन पाईप	भा. मा. 12788 : 1989
14.	2901957	24/07/2014	अलपाइन इलेक्ट्रीकल मैनुफैक्चरिंग, कं. प्रा. लि. श्री गणेश इण्डस्ट्रीयल इस्टेट, प्लॉट सं. 360/6, और 362/6, काचीगाम, नानी दमन, दमन एवं दीव-396210	एक्सप्लोसिव ऐटमॉस्फिअर्स-भाग-1 फलेमप्रूप इनक्लोजट 'डी' द्वारा उपस्कर संरक्षा	भा.मा./आयईसी 60079:भाग-1 2007
15.	2900147	25/07/2014	दातार नॉनवेर इनेरजेटिनिक लि., ई 56, तल मंजिल, एमआयडीसी, अंबाड नासिक महाराष्ट्र -422010	बिजली उपकरण घरेलू और समान संस्थापनों के लिए अति धारा संरक्षा के लिए सर्किट ब्रेकर भाग 1-, सी प्रचालन के लिए सर्किट ब्रेकर	भा.मा./आयईसी 60898:भाग-1 2002
16.	2900652	25/07/2014	पुनमिया एक्जिम प्रा.लि., गाला सं. 108/109/110, श्री भतेवा इण्ड. इस्टेट, भोईडापाडा, राजीवलि रोड, सातीवली, वसई-पूर्व, जिला ठाणे-401208	प्लास्टिक प्रभरण बोतले	भा.मा. 14625 : 1999

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

टी. कलैवाणन, प्रमुख (एमयूबीओ-ईईई)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 27th March, 2015

S.O. 631.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies of grant of licences particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the party	Product	IS No/Part/Sec. Year
1	2	3	4	5	6
1.	2894279	04/07/2014	New Age fire protection industries Pvt.Ltd., Survey No. 5 & 6, Takai Adoshi Road, Village: Honad, Tal: Khalapur Distt: Raigarh Maharashtra-410203	Explosive atmospheres part I equipment protection by flameproof enclosures "d"	IS/IEC 60079: Part 1:2007
2.	2898186	08/07/2014	Zenith Metaplast Pvt. Ltd., E-18, MIDC, Malegaon Nashik Sinnar Maharashtra-422103	Irrigation equipment-emitters	IS 13487 : 1992
3.	2898085	10/07/2014	Kisan Mouldings Limited, Survey No. 63/1, 64/1, 70, 71, 72, Village Mahagaon, Boisar (E) Palghar Distt: Thane-401506	Fittings for rigid non-metallic conduits	IS 3419 : 1988
4.	2898287	10/07/2014	Cona Electrical Solutions, Gala No. 10,11,12 & 13, Gandhi Indl. Estate, Safed Pool, Andheri (E) Mumbai-400093	Switches for domestic and similar purposes	IS 3854 : 1997
5.	2898388	15/07/2014	Skoda Cables, Gala No. 9 & 19, New Mukadam Compound, (Pimpalkar Compound), Filmcity Road, Gokuldham, Malad (E) Mumbai-400097	PVC insulated (heavy duty) electric Cables: Part 1 for working voltages upto and including 1100 V	IS 1554 : Part 1 : 1988
6.	2898489	16/07/2014	Shri Krishnashray (I) Pvt Ltd, Plot No. 8, Survey No. 200/1-D (8) & Plot No. 9, Survey No. 200/1-E(9), Panchal Udyog Nagar, Bhimpore Nani Daman-396201	Electronic type fan regulators	IS 11037 : 1984
7.	2899693	22/07/2014	Gomec Electrical Pvt. Ltd., Bldg. No. A-17, Gala No. 2, Pritesh Complex, Owli Village, Dapode Road Thane Bhiwandi Maharashtra-421308	Pressure sensitive adhesive insulating tapes for electrical purposes-part 3: requirements for individual materials-section 1 : plasticized polyvinylchloride tapes with non-thermosetting adhesive	IS 7809 : Part 3 : Sec 1: 1986
8.	2900854	22/07/2014	Kimplas Piping Systems Limited, B-20, MIDC Ambad, Nashik-422010, Maharashtra	Irrigation equipment-hydrocyclone filters	IS 14743 : 1999
9.	2901856	22/07/2014	Bhairav Industries, Plot No. 24/B, Golden Indl. Estate, Somnath Road, Dabel Daman Daman & Diu-396210	Switches for domestic and similar purposes	IS 3854 : 1997
10.	2901351	23/07/2014	Polycab Wires Pvt. Ltd., 78-82, Silver Indl. Estate, Bhimpore Daman Daman & Diu-396210	Aluminium conductors for overhead transmission purposes: Part 1 aluminium stranded conductor	IS 398 : Part 1 : 1996
11.	2901452	24/07/2014	Polycab Wires Pvt. Ltd., 78-82, Silver Indl. Estate, Bhimpore Daman Daman & Diu-396210	Aluminium conductors for overhead transmission purposes: part 2 aluminium conductors, galvanized steel reinforced	IS 398 : Part 2 : 1996

1	2	3	4	5	6
12.	2899996	24/07/2014	Kisan Mouldings Limited Survey No. 70,71,72, 63/1, 64/1, Village Mahagaon, Distt. Thane Boisar Maharashtra-400072	Emitting pipes system	IS 13488 : 2008
13.	2900046	24/07/2014	Kisan Mouldings Limited Survey No. 70,71,72, 63/1, 64/1, Village Mahagaon, Distt. Thane Boisar Maharashtra-400072	Irrigation equipment-polyethylene pipes for irrigation laterals	IS 12786 : 1989
14.	2901957	24/07/2014	Alpine Electrical Mfg. Co. Pvt. Ltd. Shree Ganesh Industrial Estate, Plot No. 360/6 & 362/6, Kachigam Daman Daman & Diu	Explosive Atmospheres-Part 1: Equipment Protection by Flameproof Enclosures "d"	IS/IEC 60079: Part 1: 2007
15.	2900147	25/07/2014	Datar Nouveau Energietechnik Limited E-56, MIDC Nasik, Ambad Maharashtra-422010	Electrical accessories-circuit breakers for over current protection for household and similar installations part 1-circuit breakers for ac operation	IS/IEC 60898: Part 1: 2002
16.	2900652	25/07/2014	Punamiya Exim Pvt.Ltd. Gala No. 108/109/110, Shree Bhateva Industrial, Bhoidapada, Rajivali Road, Sativali Distt-Thane Vasai Maharashtra-401208	Plastics feeding bottles	IS 14625 : 1999

[No. CMD/13:11]

T. KALAIVANAN, Head (MUBO-EEE)

नई दिल्ली, 27 मार्च, 2015

का.आ. 632.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं:-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
			कुछ नहीं	

[सं. केन्द्रीय प्रमाणन विभाग/13:13]

टी. कलैवानन, प्रमुख (एम यू बी ओ-ईईई)

New Delhi, the 27th March, 2015

S.O. 632.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given in the following schedule have been cancelled with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licence No.	Name and address of the licensee	Article/process with relevant Indian standard covered by the Licence	Date of cancellation
			NIL	

[No. CMD/13:13]

T. KALAIVANAN, Head (MUBO-EEE)

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 25 मार्च, 2015

का.आ. 633.—जबकि भारतीय आयुर्विज्ञान परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 06 नवंबर, 2013 को भारतीय आयुर्विज्ञान परिषद का पुनर्गठन किया गया:

और जबकि केन्द्र सरकार ने भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खंड (ख) के अनुसरण में और संबंधित विश्वविद्यालयों/स्वास्थ्य विज्ञान विश्वविद्यालयों द्वारा यथासूचित, निम्नलिखित व्यक्ति को इस अधिसूचना के जारी होने की तिथि से चार वर्षों के लिए भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में निर्वाचित किया गया है।

अतः अब, उक्त अधिनियम की धारा 3 की उपधारा (1) के उपबंध के अनुसरण में केन्द्र सरकार द्वारा भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का०आ० 138 में निम्नलिखित संशोधन किए जाते हैं, अर्थात्:-

भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय की दिनांक 06 नवंबर, 2013 की अधिसूचना सं० का.आ. 3323(अ) और उसके संशोधन में अंतिम प्रविष्टि तथा तत्संबंधी प्रविष्टि में निम्नलिखित को जोड़ा जाएगा, अर्थात्:-

क्र०	राज्य सरकार का नाम	निर्वाचित सदस्य का विवरण
1.	आंध्र प्रदेश	डॉ. नंदकिशोर दुक्कीपति, प्रबंध निदेशक, लाईव लाइफ अस्पताल, विजयवाड़ा, आंध्र प्रदेश

[सं. वी. 11013/2/2014-एमईपी-I]

अमित बिश्वास, अवर सचिव

पाद टिप्पणी: दिनांक 9 जनवरी, 1960 के का.आ. 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 25th March, 2015

S.O. 633.—Whereas on 06th November, 2013, the Medical Council of India was reconstituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

And Whereas the Central Government, in pursuance of clause (a) of sub-section (1) of section 3 of the Indian

Medical Council Act, 1956 (102 of 1956) and in consultation with the respective State Governments have nominated the following to be a member of the Medical Council of India for four years with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following amendment in the Notification of the Government of India in the then Ministry of Health Number S.O. 138 dated the 9th January, 1960, namely:

In the notification of the Government of India in the Ministry of Health & Family Welfare number S.O. 3323(E) dated the 06th November, 2013, after the last entry and entry relating thereto, the following shall be inserted, namely:

S. No.	Name of the State Government	Details of the Nominated Member
1.	Andhra Pradesh	Dr. Nandakishore Dukkipati, Managing Director, Live Life Hospitals, Vijayawada, Andhra Pradesh

[No. V. 11013/2/2014-MEP-I]

AMIT BISWAS, Under Secy.

Foot Note: The principal notification was published in the Gazette of India *vide* number S.O. 138 dated the 9th January, 1960 and was last amended *vide* Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

नई दिल्ली, 25 मार्च, 2015

का.आ. 634.—जबकि भारतीय आयुर्विज्ञान परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 06 नवंबर, 2013 को भारतीय आयुर्विज्ञान परिषद का पुनर्गठन किया गया ;

और जबकि केन्द्र सरकार ने भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खंड (ख) के अनुसरण में और संबंधित विश्वविद्यालयों/स्वास्थ्य विज्ञान विश्वविद्यालयों द्वारा यथा सूचित, निम्नलिखित व्यक्ति को इस अधिसूचना के जारी होने की तिथि से चार वर्षों के लिए भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में निर्वाचित किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उपधारा (1) के उपबंध के अनुसरण में केन्द्र सरकार द्वारा भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का०आ० 138 में निम्नलिखित संशोधन किए जाते हैं, अर्थात्:-

भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय की दिनांक 06 नवंबर, 2013 की अधिसूचना सं० का०आ० 3325(अ) और उसके संशोधन में अंतिम प्रविष्टि तथा तत्संबंधी प्रविष्टि में निम्नलिखित को जोड़ा जाएगा,

अर्थात्:-

क्र.	राज्य सरकार का नाम	निर्वाचित सदस्य का विवरण	चुनाव का तरीका सं.
44.	हिमाचल प्रदेश विश्वविद्यालय	टंडा, हिमाचल प्रदेश में डॉ. अनिल चौहान, प्राचार्य, डॉ. आर.पी. सरकारी मेडिकल कॉलेज, कांगड़ा	न्यायालय द्वारा एकमत से निर्वाचित

[सं. वी. 11013/1/2013-एमईपी-I]

अमित बिश्वास, अवर सचिव

पाद टिप्पणी: दिनांक 9 जनवरी, 1960 के का.आ. 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

New Delhi, the 25th March, 2015

S.O. 634.—Whereas on 06th November, 2013, the Medical Council of India was reconstituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

And Whereas the Central Government, in pursuance of clause (b) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and as informed by the respective Universities/health science Universities, have elected the following to be a member of the Medical Council of India for four years with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following amendment in the Notification of the Government of India in the then Ministry of Health Number S.O. 138 dated the 9th January, 1960, namely:

In the notification of the Government of India in the Ministry of Health & Family Welfare number S.O. 3325(E) dated the 06th November, 2013, and amendment thereto, after the last entry and entry relating thereto, the following shall be inserted, namely:

S. No.	Name of the University	Details of the Elected Member	Mode of Election
44.	Himachal Pradesh University	Dr. Anil Chauhan, Principal, Dr. R.P. Govt. Medical College, Kangra at Tanda, Himachal Pradesh.	Elected Unanimously by Court

[No. V. 11013/1/2013-MEP-I]

AMIT BISWAS, Under Secy.

Foot Note: The principal notification was published in the Gazette of India *vide* number S.O. 138 dated the 9th January,

1960 and was last amended *vide* Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

नई दिल्ली, 25 मार्च, 2015

का.आ. 635.—जबकि भारतीय आयुर्विज्ञान परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 06 नवंबर, 2013 को भारतीय आयुर्विज्ञान परिषद का पुनर्गठन किया गया ;

जबकि भारतीय चिकित्सा अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1)(क) के प्रावधान के अनुसरण में डॉ. असीम बिजय सिंह को भारत के राजपत्र की 05.11.2013 की अधिसूचना द्वारा मणिपुर सरकार का प्रतिनिधित्व करने के लिए भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में चुना गया था:

क्र.	राज्य का नाम	निर्वाचित सदस्य का विवरण सं.
15.	मणिपुर	डॉ. असीम बिजय सिंह, निदेशक, चिकित्सा एवं स्वास्थ्य सेवाएं, मणिपुर

जबकि मणिपुर सरकार ने सूचित किया है कि डॉ. असीम बिजय सिंह को आईएमसी अधिनियम, 1956 की धारा 3(1)(क) के अंतर्गत मणिपुर राज्य का प्रतिनिधित्व करने के लिए एमसीआई के सदस्य के रूप में नामित किया गया था। मणिपुर सरकार ने अब डॉ. ओकराम ईबोमचा सिंह को राज्य के प्रतिनिधि के रूप में नामित किया है क्योंकि डॉ. असीम बिजय सिंह चिकित्सा शिक्षा, मणिपुर सरकार में निदेशक के पद से सेवा-निवृत्त हो गए हैं। इसलिए, आईएमसी अधिनियम, 1956 की धारा 3(1)(क) के अंतर्गत डॉ. असीम बिजय सिंह की मणिपुर सरकार प्रतिनिधित्व करने के लिए भारतीय आयुर्विज्ञान परिषद की सदस्यता समाप्त हो गई है।

इसलिए, अब उक्त आईएमसी अधिनियम, 1956 की धारा 7 की उप-धारा 3 के प्रावधान के अनुसरण में डॉ. असीम बिजय सिंह मणिपुर सरकार के चिकित्सा संकाय नहीं हैं और मणिपुर सरकार के प्रतिनिधित्व के रूप में उनकी भारतीय आयुर्विज्ञान परिषद की सदस्यता को 25.03.2015 से समाप्त माना जाए।

[सं. वी. 11013/1/2013-एमईपी-I]

अमित बिश्वास, अवर सचिव

पाद टिप्पणी: दिनांक 9 जनवरी, 1960 के का.आ. 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

New Delhi, the 25th March, 2015

S.O. 635.—Whereas on 06 November, 2013, the Medical Council of India was reconstituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

Whereas in pursuance of the provision of sub-section (1)(a) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. Asem Bijoy Singh, was elected as member of the Medical Council of India representing Government of Manipur *vide* notification dated 05.11.2013 in Gazette of India:

S. No.	Name of the State	Details of the Elected Member
15.	Manipur	Dr. Asem Bijoy Singh, Director of Medical & Health Services, Manipur.

Whereas the Government of Manipur has informed Dr. Asem Bijoy Singh was nominated as Member of MCI as State representative u/s. 3(1)(a) of IMC, Act, 1956 for the State of Manipur. Govt. of Manipur has now nominated Dr. Okram Ibomcha Singh as State representative as Dr. Asem Bijoy Singh was retired from service as Director of Medical Education, Government of Manipur. Therefore, Dr. Asem Bijoy Singh has ceased to be a member of Medical Council of India representing Government of Manipur under section 3(1)(a) of IMC Act, 1956.

Now, therefore, in pursuance of the provision of sub-section 3 of Section 7 of the IMC 1956, Dr. Asem Bijoy Singh is not medical faculty of the Government of Manipur and shall be deemed to have ceased to be a member of the Medical Council of India representing Government of Manipur with immediate effect from 25.03.2015.

[No. V. 11013/01/2013-MEP-I]

AMIT BISWAS, Under Secy.

Foot Note: The principal notification was published in the Gazette of India *vide* number S.O. 138 dated the 9th January, 1960 and was last amended *vide* Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

नई दिल्ली, 25 मार्च, 2015

का.आ. 636.—जबकि भारतीय आयुर्विज्ञान परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 06 नवंबर, 2013 को भारतीय आयुर्विज्ञान परिषद का पुनर्गठन किया गया;

जबकि भारतीय चिकित्सा अधिनियम, अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1)(क) के प्रावधान के अनुसरण में डॉ. पुट्टा श्रीनिवास को भारत के राजपत्र की 05.11.2013 की अधिसूचना द्वारा आंध्र प्रदेश सरकार का प्रतिनिधित्व करने के लिए भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में चुना गया था:

क्र. सं.	राज्य का नाम	निर्वाचित सदस्य का विवरण
1.	आंध्र प्रदेश	डॉ. पुट्टा श्रीनिवास, प्रोफेसर, डीवीएल, प्राचार्य प्रभारी, ओसमानिया मेडिकल कॉलेज, हैदराबाद

जबकि आंध्र प्रदेश सरकार ने सूचित किया है कि डॉ. पुट्टा श्रीनिवास को आईएमसी अधिनियम, 1956 की धारा 3(1)(क) के अंतर्गत अविभाजित आंध्र प्रदेश राज्य का प्रतिनिधित्व करने के लिए एमसीआई के सदस्य के रूप में नामित किया गया था। आंध्र प्रदेश सरकार ने अब डॉ. नंदकिशोर दुक्किपति को राज्य के प्रतिनिधि के रूप में नामित किया है क्योंकि डॉ. पुट्टा श्रीनिवास चिकित्सा शिक्षा, तेलंगाना, हैदराबाद के पद पर कार्य कर रहे हैं। इसलिए, आईएमसी अधिनियम, 1956 की धारा 3(1)(क) के अंतर्गत डॉ. पुट्टा श्रीनिवास की आंध्र प्रदेश सरकार का प्रतिनिधित्व करने के लिए भारतीय आयुर्विज्ञान परिषद की सदस्यता समाप्त हो गई है।

इसलिए, अब उक्त आईएमसी अधिनियम, 1956 प्रावधानों के अनुसरण में डॉ. पुट्टा श्रीनिवास आंध्र प्रदेश सरकार के चिकित्सा संकाय नहीं हैं और आंध्र प्रदेश सरकार के प्रतिनिधित्व के रूप में उनकी भारतीय आयुर्विज्ञान परिषद की सदस्यता को 25.03.2015 से समाप्त माना जाए।

[सं. वी. 11013/02/2014-एमईपी-I]

अमित बिश्वास, अवर सचिव

पाद टिप्पणी: दिनांक 9 जनवरी, 1960 के का.आ. 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

New Delhi, the 25th March, 2015

S.O. 636.—Whereas on 06 November, 2013, the Medical Council of India was reconstituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

Whereas in pursuance of the provision of sub-section (1)(a) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. Putta Srinivas, was elected as member of the Medical Council of India representing Government of Andhra Pradesh *vide* notification dated 05.11.2013 in Gazette of India:

S. No.	Name of the State	Details of the Elected Member
1.	Andhra Pradesh	Dr. Putta Srinivas, Professor of DVL, Principal I/c, Osmania Medical College, Hyderabad

Whereas the Government of Andhra Pradesh has informed Dr. Putta Srinivas was nominated as Member of MCI as State representative u/s 3(1)(a) of IMC, Act, 1956 for the undivided State of Andhra Pradesh. Govt. of Andhra Pradesh has now nominated Dr. Nandakishore Dukkkipati as State representative as Dr. Putta Srinivas is serving as Director of Medical Education, Government of Telangana, Hyderabad. Therefore, Dr. Putta Srinivas has ceased to be a member of Medical Council of India representing Government of Andhra Pradesh under section 3(1)(a) of IMC Act, 1956.

Now, therefore, in pursuance of the provision of sub-section 3 of section 7 of the IMC 1956, Dr. Putta Srinivas is not medical faculty of the Government of Andhra Pradesh and shall be deemed to have ceased to be a member of the Medical Council of India representing Government of Andhra Pradesh with immediate effect from 25.03.2015.

[No. V. 11013/02/2014-MEP-I]

AMIT BISWAS, Under Secy.

Foot Note: The principal notification was published in the Gazette of India *vide* number S.O. 138 dated the 9th January, 1960 and was last amended *vide* Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

नई दिल्ली, 20 मार्च, 2015

का.आ. 637.—जबकि भारतीय आयुर्विज्ञान परिषद (संशोधन) अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 06 नवंबर, 2013 को भारतीय आयुर्विज्ञान परिषद का पुनर्गठन किया गया:

जबकि भारतीय चिकित्सा अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) (ख) के प्रावधान के अनुसरण में डॉ० डी० के० गुप्ता को 06.11.2013 से किंग जार्ज मेडिकल यूनिवर्सिटी, लखनऊ का प्रतिनिधित्व करने के लिए भारतीय आयुर्विज्ञान परिषद के सदस्य के रूप में चुना गया।

जबकि किंग जार्ज मेडिकल यूनिवर्सिटी, लखनऊ ने सूचित किया है कि डॉ० डी० के० गुप्ता, जो आईएमसी अधिनियम, 1956 की धारा 3(1) (ख) के अंतर्गत किंग जार्ज मेडिकल यूनिवर्सिटी, लखनऊ का प्रतिनिधित्व कर रहे हैं, 10 अप्रैल, 2014 से किंग जार्ज मेडिकल यूनिवर्सिटी में किसी भी हैसियत से कार्य नहीं कर रहे हैं। इसलिए, आईएमसी अधिनियम, 1956 की धारा 3(1)(ख) के अंतर्गत डॉ० डी० के० गुप्ता की किंग जार्ज मेडिकल यूनिवर्सिटी, लखनऊ की सदस्यता समाप्त हो गई है।

इसलिए, अब उक्त आईएमसी अधिनियम, 1956 के प्रावधानों के अनुसरण में डॉ० डी० के० गुप्ता की किंग जार्ज मेडिकल यूनिवर्सिटी, लखनऊ के प्रतिनिधित्व के रूप में भारतीय आयुर्विज्ञान परिषद की सदस्यता को 20.03.2015 से समाप्त माना जाए।

[सं. वी. 11013/1/2013-एमईपी-I]

अमित बिश्वास, अवर सचिव

पाद टिप्पणी: दिनांक 9 जनवरी, 1960 के का.आ. 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद, (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

New Delhi, the 20th March, 2015

S.O. 637.—Whereas on 06th November, 2013, the Medical Council of India was re-constituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

Whereas in pursuance of the provision of sub-section (1)(b) of section 3 of the Indian Medical Act, 1956 (102 of 1956) Dr. D.K. Gupta was elected as a member of the Medical Council of India representing King George's Medical University, Lucknow with effect from 06.11.2013;

Whereas the King George's Medical University, Lucknow has informed that Dr. D.K. Gupta who is representing King George's Medical University, Lucknow under section 3(1)(b) of IMC Act, 1956 is not serving King George's Medical University in any capacity *w.e.f.* April 10, 2014. Therefore, Dr. D.K. Gupta has ceased to be a member of Medical Council of India representing King George's Medical University, Lucknow under section 3(1)(b) of IMC Act, 1956.

Now, therefore, in pursuance of the provision of IMC Act, 1956, Dr. D.K. Gupta shall be deemed to have ceased to be a member of the Medical Council of India representing King George's Medical University, Lucknow with effect from 20.03.2015.

[No. V-11013/1/2013-MEP-I]

AMIT BISWAS, Under Secy.

Foot Note: The Principal notification was published in the Gazette of India *vide* number S.O. 138 dated the 9th January, 1960 and was last amended *vide* Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

कृषि मंत्रालय

(कृषि अनुसंधान एवं शिक्षा विभाग)

नई दिल्ली, 26 मार्च, 2015

का.आ. 638.—केन्द्रीय सरकार, कृषि मंत्रालय, कृषि अनुसंधान एवं शिक्षा विभाग, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली 1976 के नियम 10 के उपनियम (4) के अनुसरण में, कृषि प्रणाली अनुसंधान परियोजना निदेशालय, भा.कृ.अ.प., मोदीपुरम, मेरठ, उत्तर प्रदेश को जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

[फा० सं० 13-10/2009-हिंदी/42]

मधुबाला, अवर सचिव

MINISTRY OF AGRICULTURE

(Department of Agricultural Research and Education)

New Delhi, the 26th March, 2015

S.O. 638.—In pursuance of sub-Rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules 1976, the Central Government, Ministry of Agriculture, Department of Agricultural Research & Education hereby notifies the Project Directorate for

Farming System Research Modipuram, Meerut, ICAR, (U.P.) where more than 80% of staff have acquired the working knowledge of Hindi.

[No. 13-10/2009-Hindi/42]

MADHU BALA, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 30 मार्च, 2015

का.आ. 639.—राजीव गांधी पेट्रोलियम प्रौद्योगिकी संस्थान (आरजीआईपीटी) अधिनियम, 2007 के नियम, 5 (1) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निम्नलिखित व्यक्तियों को आरजीआईपीटी के पुनर्गठित अधिशासी मंडल में उनके नाम के सामने उल्लिखित तारीखों से तीन वर्ष की अवधि के लिए या अगले आदेश होने तक, जो भी पहले हो, सदस्य नियुक्त करती है:

- (1) श्री प्रभात सिंह, निदेशक (विपणन), गेल 02.02.2015 से
- (2) श्री डी०डी० मिश्रा, निदेशक (एचआर), ओएनजीसी, 02.02.2015 से
- (3) प्रो० दीपक कुंजरू, प्रोफेसर, रसायन इंजीनियरी, आईआईटी, कानपुर 04.03.2015 से

[फा. सं. जे.25021/13/2014-जन.(पार्ट)]

राज किशोर, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 30th March, 2015

S.O. 639.—in exercise of the powers conferred under Rule 5(1) of the Rajiv Gandhi Institute of Petroleum Technology (RGIPT) Act, 2007, the Central Government hereby appoints the following persons as members on the reconstituted Board of Governors of RGIPT with effect from the dates mentioned against their names for a period of three years or until further orders, whichever is earlier:—

- (1) Shri Prabhat Singh, Director (Marketing), GAIL, w.e.f. 02.02.2015
- (2) Shri D.D. Misra Director (HR), ONGC w.e.f. 02.02.2015
- (3) Prof. Deepak Kunzru, Professor of Chemical Engineering, IIT, Kanpur w.e.f. 04.03.2015.

[F. No. J-25021/13/2014-Gen.(Pt)]

RAJ KISHORE, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 24 मार्च, 2015

का०आ० 640.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गवर्नमेंट ओपियम और अल्कलॉइड फैक्ट्री के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट

(संदर्भ संख्या सीजीआईटी/एलसी/आर 16/01) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/03/2015 को प्राप्त हुआ था।

[सं० एल-42012/141/98-आई आर (डी यू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 24th March, 2015

S.O. 640.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. Case No. CGIT/LC/R/16/01) of the Central Government Industrial Tribunal cum Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Govt. Opium & Alkaloid Factory and their workman, which was received by the Central Government on 23/03/2015.

[No. L-42012/141/98-IR(DU)]

P.K. VENU GOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/16/2001

Smt. Kusum Batham, Sunil and Gajendra-LRs
Shri Bhagwan Das Batham,
S/o Sitaram Batham,
Laghedi Dagar,
Wada Gwalior.

Workman

Versus

Chief Controller,
Govt. Opium & Alkaloid Factory,
Adarsh Nagar, Morar
Chief Controller,
Govt. Opium & Alkaloid Factory,
Saraswati house, 27, Nehru Place,
Vth Floor, New Delhi.

Management

AWARD

Passed on this 11th day of March, 2015

1. As per letter dated 13-12-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/141/98-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Govt. Opium and Alkaloid Factories in terminating the services of Shri Bhagwan Das is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/4. Case of Ist party workman is that he was appointed as water sprinkler on 7-5-93. He was working with devotion. He was appointed after his name was sponsored through Employment Exchange. He was appointed as class IV employee against vacant post. His services were orally terminated on 1-8-97. He belongs to backward caste. In para 5 of his statement of claim, workman has given details of the appointment orders, date of appointment and period for which he was appointed by IInd party from 93 to 97. His services are terminated without notice. The Ist party workman was clearly paid Rs. 1000 per month. His pay was increased to Rs. 1200 from 19-12-94. Though he was appointed as Class IV employee, management engaged in unfair labour practice by not regularizing his service. Management of IInd party illegally given artificial break. His pay was deducted. When Ist party requested management for appointment on permanent post, management got annoyed and terminated his service. The employees junior to him are continued in employment. Workman was not paid retrenchment compensation. That provisions of Section 25-F, G, H of ID Act are violated by management. On such ground, workman prays for his reinstatement with back wages.

3. IInd party submitted Written Statement at Page 6/1 to 6/3. It is submitted that workman was appointed on contract basis for specific period. Workman was appointed on regular post. That office of Employment Exchange has no authority to make any appointment. That after expiry of the period of appointment, the services of workman were automatically terminated. IInd party had not terminated his services. The contentions of workman are misconceived. The provisions of Section 25-F of ID Act is not applicable as Ist party workman was appointed by specific period workman is not entitled to any relief.

4. Workman submitted rejoined at Page 7/1 to 7/2. Workman has contented that he was appointed on the post of water sprinkler following selection process. That he was paid daily wages. That his name was sponsored through Employment Exchange on 7.5.93. He was not appointed by Employment Exchange office. IInd party had called names of candidates from Employment Exchange Office, Gwalior, IInd party had introduced scheme for regularization of daily wage casual labours from 1-9-93. He was not given its benefit even after working for more than 4 years. IInd party has violated Section 25 N of ID Act.

5. IInd party filed reply to rejoinder at page 9/1 to 9/4 reiterating its contentions in Written Statement. That workman was not appointed against vacant post. Workman was appointed for specific period. Workman not completed 240 days continuous service. Provisions of ID Act are not violated.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of Govt. Opium & Alkaloid Factories in terminating the services of Shri Bhagwan Das is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. The dispute between parties pertains to legality of termination of service of workman. As per Ist party workman, IInd party terminated his services in violation of Section 25-F, N of ID Act. He was not served with notice. No retrenchment compensation was paid to him. He worked for more than 4 years. He was appointed as water sprinkler after his name was sponsored through Employment Exchange. IInd party has not specifically denied his working. IInd party has pleaded that appointed of workman was for specific period. Workman died during pendency. His LRs Smt. Kusum Batham, Sunil and Gajendra were brought on record as per application at Page 17.

8. However workman had filed affidavit of his evidence supporting his contentions that he was appointed on vacant post of water sprinkler on daily wages at the rate prescribed by Government. His services were terminated without notice, he was not paid retrenchment compensation.

9. In his cross-examination Ist party workman says that Opium Factory is not at Gwalior. Only office of Opium Factory is at Gwalior. Factory is located at Neemuch. He was working in office for sprinkling water. He was paid daily wages. He worked for 4 years 3 months. He denied that he was appointed on contract basis and he was paid Rs. 45/- per day. He denied that he was paid fixed Rs. 1000/- per month. That he worked on daily wages for 5 months. Thereafter he worked on contract basis. The documents produced by workman at Exhibit W-1 to W-19. Exhibit W-1 shows that his name was sponsored by Employment Exchange. He was appointed on daily wages as per rate fixed by the State Govt. Exhibit W-2 to W-4 shows that he was appointed on fixed pay Rs. 1000 per month. As per Exhibit W-5, 6 workman was appointed on consolidated pay Rs. 3000 for period of 3 months. As per Exhibit W-7 to 18, pay of workman was increased to Rs. 1200 per month. His services are terminated from 1-8-97 as per Exhibit W-19 without assigning any reasons. Workman was issued appointment orders for specific period for more than 4 years. It shows that work for which the workman was appointed was of temporary nature despite his name was sponsored through Employment Exchange. He was appointed on daily

wages for specific period. Schedule V Item 10 of ID Act provides to employ workman as badly, casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent workman. Is unfair labour practice.

10. Workman was continued as casual labour on daily wages for years together by IInd party management clearly establish unfair labour practice on part of IInd party. When he claimed benefit of permanent employ, his services are terminated is illegal. Workman is not served with notice, is not paid retrenchment compensation though he completed 240 days continuous service, termination of workman is illegal. Though affidavit of management's witness Smt. Mrignaina Srivastava is filed supporting contentions of management, the witness of management failed to appear for her cross-examination therefore her evidence cannot be considered. As service of workman is terminated in violation of Section 25-F, I record my finding in Point No. 1 Negative.

11. Point No. 2—termination of workman is illegal for violation of Section 25-F of ID Act, question arises what relief the workman is entitled for. On the point, learned counsel for workman placed reliance on ratio held in case of Hari Nandan Prasad *versus* FCI. In above cited case, the order of reinstatement with 50% back wages was awarded. In the case at hand, as workman died during pendency of reference proceeding, his LRs are brought on record, therefor there is no question of reinstatement of workman. Considering workman had completed more than 4 years service with IInd party, his services is terminated in violation of Section 25-F of ID Act, compensation Rs. One Lakh would be reasonable. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:—

- (1) The action of the management of Govt. Opium & Alkaloid Factories in terminating the services of Shri Bhagwan Das is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. One Lakh to the LRs of the deceased workman within 30 days from the date of publication of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 24 मार्च, 2015

का०आ० 641.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक नोट प्रेस, देवास के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध 1 में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/

आर/105/07) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/03/2015 को प्राप्त हुआ था।

[सं० एल०-16011/03/2007-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 24th March, 2015

S.O. 641.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/105/07) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between, the employers in relation to the management of the Bank Note Press, Dewas and their workmen, which was received by the Central Government on 23/03/2015.

[No. L-16011/03/2007-IR(DU)]

P. K. VENU GOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/105/07

General Secretary,
Bank Note Mudranalaya Karmchari Congress,
13, Lakshmi Nagar,
Bhosle Colony,
BNP, Colony,
Dewas (MP)

Workman/Union

Versus

General Manager,
Bank Note Press,
Dewas (MP)

Management

AWARD

Passed on this 27th day of February, 2015

1. As per letter dated 17-10-2007 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-16011/3/2007-IR(DU). The dispute under reference relates to:

"Whether the action of the management of General Manager, Bank Note Press, Dewas in not counting the period of annual increments from the year 1992 to 1996 while fixing the pay of Shri Prakash Joshi, and consequently fixation of his pay *w.e.f.* 1-9-97 is legal and justified? If not, what relief the workman is entitled to and from which date?"

2. After receiving reference, notices were issued to the parties. General Secretary of Bank Note Mazdoor Karmchari

Congress submitted statement of claim on behalf of workman Shri Prakash Joshi. Case of workman is that he was initially appointed as watchman. His service record was satisfactory. He was promoted to the post of counter on 19-11-99. The pay of workman of post of counter was fixed Rs. 3300/-. The pay of workman junior to him was fixed Rs. 3510/-. That as per Notification dated 30-09-97, Govt. of India clarified that basic pay of any person should be fixed as on 1-1-96 on the post he was working. Workman submits that he is entitled for annual increments from 1992 to 1996. The workman submits that he is also entitled to 18% interest on amount of arrears. It is further submitted that during period of charges against him and DE conducted, the punishment of withholding one increment without cumulative effect imposed against him on 9-5-91.

3. Workman was appointed on 1-10-81 in pay scale Rs. 196/- per month. After implementation of Vth Pay Commission, his pay was reduced to Rs. 750, 2550 respectively. That while fixing his salary the increments were not added as per the rules. The procedure adopted by IInd party amounts to unfair labour practice. On such ground, workman is praying to release his annual increments for the year 1990 to 1996 and fix his pay on 1-9-97.

4. IInd party filed Written Statement at Page 11/1 to 11/3 opposing claim of the workman. It is submitted by IInd party that Ist party workman joined service as watchman on 1-10-81. Thereafter he was selected as Mazdoor (Control) on personal quota on 26-3-85. Presently workman is working as counter in control section. That for unauthorized absence, charge sheet was issued to workman on 21-11-90. His one increment was withheld without cumulative effect as per order dated 9-5-91. Besides it, workman was absent for 493 days during 89 to 96. His absence was treated as LWP as medical certificate was not produced. That Ist party workman was due to cross efficiency bar on 1-12-92 at the stage of Rs. 870 in pay Scale Rs. 750-7-870-14-940. The case of workman was submitted before DPC on 25-4-93, 1-12-93, 23-11-94 & 13-11-95. However due to adverse CR, he was not found fit for efficiency bar. That workman was communicated adverse CR about his irregularity in attendance during the period 1989 to 1995. Workman was allowed to cross efficiency from 1-12-96 on recommendation of DPC. The penalty of withholding next increment was imposed on 9-5-91. His absence for 493 days working was not allowed to cross efficiency bar. All adverse contentions of workman are denied.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Where the action of the management of General Manager,

Bank Note Press, Dewas in not counting the period of annual increments from the year 1992 to 1996 while fixing the pay of Shri Prakash Joshi, and consequently fixation of his pay w.e.f. 1-9-97 is legal and justified?

- (ii) If not, what relief the workman is entitled to? As per final order.

REASONS

6. There is no dispute between parties that one increment of workman was withheld without cumulative effect as per punishment order dated 9-5-91. The workman filed affidavit of his evidence and stated that his pay was illegally fixed to Rs. 3300/-. The pay of employees junior to him was fixed Rs. 3510/-. That he was not given benefit of increment for the year 1992 to 1996. His pay was fixed on 9-1-97 without adducing increments for the year 92 to 96. He has also stated about his revised pay as per 4th and 5th pay commission. In his cross-examination, workman says his claim pertains to denial of annual increment from 1992 to 1996. He had received memorandum about withholding one increment by way of punishment. 80 days absence was treated on duty period. He was suffering from illness. He claims ignorance why his increments were not released. On 11-11-03, he submitted representation to Accountant marked as Exhibit W-1. Order dated 12-5-91 is marked Exhibit W-4. There is no suggestion in cross-examination of workman that the adverse CR for the year 1992-1996 were communicated to him.

7. Management filed affidavit of evidence of witness Shri A.K. Pandit supporting contentions in Written Statement. That one increment without cumulative effect as per order dated 9-5-91. That workman was due to cross efficiency bar at pay stage of Rs. 870 from 1-12-92. The matter was placed before DPC on 25-4-93, 1-12-93, 23-12-94, 11-11-95. However due to adverse CR, workman was not found fit to cross efficiency bar. Workman was communicated about CR on 21-5-93, 23-11-93, 29-11-94, 15-11-95. The adverse CR for the year 89 to 95 were communicated to the workman. For absence of 493 days of workman during 89 to 96, he was not allowed to cross efficiency bar.

8. From evidence of management's witness document M-1 to M-14 are proved. In his cross-examination, management's witness says during 98 to 96, he was working as Section Officer. He was looking court cases, disciplinary cases. He was receiving CRs and communicating adverse CRs to concerned employees. The adverse CRs were communicated through Administrative Officer. During 89 to 96, several Section Officers were working. Competent Authority communicated CRs. The management's witness admits that adverse CR of workman were written on the

basis of his absence of 493 days. As stated in Para-4 of his affidavit, one charge sheet was already issued to workman. Exhibit M-1 pertains to the absence in the year 1990. No other charge sheet was issued to workman.

9. The documentary evidence Exhibit W-1 is representation submitted by workman dated 11-11-03 submitting his grievance about wrong fixation of his pay. Exhibit W-2 is order of punishment dated 9-5-91, one increment of workman was withheld without cumulative effect. Exhibit M-1 is memorandum of charges about unauthorized absence of workman. M-2 is copy of punishment order dated 9-5-91. M-3, M-4 to M-6 are intimation that workman was not allowed to cross efficiency bar M-7 to M-12 are CRs of workman for the year 1990 to 1995. In all those CRs, it was observed that workman was not punctual in attendance and need improvement. Those documents do not show its copy was sent to workman or workman was communicated those adverse remarks. As per Exhibit M-13, 14 workman was not allowed to cross efficiency bar. When Exhibit M-7 to M-12 the ACRs were not communicated to workman denying workman to cross efficiency bar on such reports cannot be said legal. For above reasons, the denial to cross efficiency bar to workman from 1992 is illegal. Action of Management is not legal. Therefore I record my finding in Point No. 1 in Negative.

10. Point No. 2—in view of my finding on Point No. 1, workman is denied to cross efficiency bar on the basis of un-communicated ACRs cannot be sustained. Workman therefore deserves to cross efficiency bar from 1-12-92. Secondly he is also entitled to annual increments for the year 1992 to 1996. Accordingly I record my finding in Point No. 2.

11. In the result, award is passed as under:—

- (1) The action of the management of General Manager, Bank Note Press, Dewas in not counting the period of annual increments from the year 1992 to 1996 while fixing the pay of Shri Prakash Joshi, and consequently fixation of his pay w.e.f. 1-9-97 is not legal and proper.
- (2) IInd party is directed to allow Ist party workman to cross efficiency bar w.e.f. 1-12-1992 and release his annual increments for the year 1992 to 1996 and accordingly his pay be fixed. The arrears of amount be paid to workman within 30 days from date of publication of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 मार्च, 2015

का०आ० 642.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय टेलनेट लिमिटेड

ग्वालियर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआई टी/एलसी/आर-89/04) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/03/2015 को प्राप्त हुआ था।

[सं. एल-40012/102/04-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 24th March, 2015

S.O. 642.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. Case No. CGIT/LC/R/89/04) of the Central Government Industrial Tribunal Cum Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharati Telenet Ltd., Gwalior and their workmen, which was received by the Central Government on 23/03/2015.

[No. L-40012/102/04-आई आर (डीयू)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/89/04

Shri Rambharose Solanki,
Jati Ki Line, Birla Nagar,
Gwalior.

...Workman

Versus

Chief Operating Officer,
Bharati Telenet Ltd.,
Gwalior.

...Management

AWARD

Passed on this 11th day of March, 2015

1. As per letter dated 28-7-04 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/102/04-IR(DU). The dispute under reference relates to:

"Whether the contract awarded by the management of Chief Operating Officer, Bharati Telenet Ltd. Gwalior to M/S Ravi Security Organisation (P) Ltd., Gwalior is sham or not? If so whether the demand of the workman Shri Rambharose Solanki for reinstatement in the establishment of Chief Operating Officer, Bharati Telenet Ltd. is justified? If so, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties, Ist party submitted statement of claim at Page 3/1 to 3/2. Case of Ist party is that he was appointed as operator on establishment of IInd party in June 2000. He was working as operator till June 2002. Working has produced copy of pay slip of June 2000. It is further submitted that Ist party workman completed 2 years continuous service. He was removed from service without notice. opportunity was given to him before terminating his services. The representations of workman for reinstatement were not considered. In dispute raised before Conciliation Officer, IInd party did not respond. Failure report was submitted. It is submitted that termination of workman is in violation of Section 25-F of ID Act.

3. IInd party is proceeded ex-parte on 3-6-09 Case repeatedly fixed for evidence of workman. Evidence of workman was closed on 8-2-2013.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. May findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the contract awarded by Redundant the management of Chief Operating Officer, Bharat Telenet Ltd. Gwalior to M/s Ravi Security Organisation (P) Ltd., Gwalior is sham or not? | |
| (ii) Whether the demand of the workman Shri Rambharose Solanki for reinstatement in the establishment of Chief Operating Officer, Bharati Telenet Ltd. is justified? | In Negative |
| (iii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

5. Ist part of terms of reference pertains to whether the contract awarded by Chief Operating Officer, Bharti Telenet Ltd. to M/s Ravi Security Organisation is sham. Workman filed statement of claim has absolutely not pleaded anything in that regard. IInd party has also not participated in reference or filed Written Statement. Therefore Ist point has become redundant for want of pleadings by parties. Accordingly I record my finding in Point No. 1.

6. Point No. 2- workman has pleaded that he was working as operator in IInd party from June 2000 to June 2002. His services are terminated without notice in violation of Section 25-F of ID Act. Though the case was repeated fixed for evidence of workman and his evidence has been closed on 8-2-2013, the record shows that workman has submitted his affidavit in support of contentions in statement of claim. IInd party has failed to participate in reference proceedings filing Written Statement. As such

the contentions of workman are supported by affidavit though no separate evidence is adduced by workman. It cannot be said that claim of workman is not supported by evidence. As contentions of workman about continuously working as operator in IInd party are not disputed his termination without notice in violation of Section 25-F of ID Act. His claim remained unchallenged. I record my finding in Point No. 2 In Negative.

7. Point No. 3-the termination of Service of workman is legal as per finding in Point No. 2. IInd party has not participated in reference therefore I donot find any reason to reject claim for reinstatement of workman with back wages. Workman is entitled for reinstatement as his claim is not contested by IInd party. Accordingly I record my finding in Point No. 3.

8. In the result, award is passed as under:—

- (1) The dispute between parties relating to contract with Ravi Security Organisation (P) Ltd., Gwalior is bogus couldnot be decided for want of pleadings and evidence.
- (2) Demand of workman for reinstatement is illegal.
- (3) IInd party is dierected to reinstate Ist party workman Shri Ram Bharose Solanki with continuity of service and backwages from the date of order of reference i.e. 28-7-04.

R.B. PATLE, Presiding Officer

नई दिल्ली, 24 मार्च, 2015

का.आ. 643.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकॉम फैक्ट्री जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसीआर-31/09) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/03/2015 को प्राप्त हुआ था।

[सं एल-40011/36/2008-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 24th March, 2015

S.O. .643.—in pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (I.D. Case No. CGIT/LC/R/31/09) of the Central Government Industrial Tribunal Cum Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom Factory, Jabalpur and their workmen, which was received by the Central Government on 23/03/2015.

[No. L-40011/36/2008-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL -CUM- LABOUR COURT, JABALPUR

NO. CGIT/LC/R/31/09

PRESIDING OFFICER: SHRIR.B. PATLE

The Circle Secretary,
BSNL Employees Union,
Telecom Factory,
Wright Town,
Jabalpur

...Workman/Union

Versus

Chief General Manager,
Telecom Factory, Wright Town,
Jabalpur

...Management

AWARD

Passed on this 10th day of March, 2015

1. As per letter dated 18.2.09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40011/36/2008-IR(DU). The dispute under reference relates to:

"Whether the demand of BSNL Employees Union for considering/Counting past services rendered by the canteen Employees prior to declaring them Central Government employees for the purpose of pensioner and gratuity benefits is legal and justified? If Yes, to what relief the workmen are entitled to?"

2. Even after issuing notices, the Ist party Union did not participate in the proceedings, no statement of claim is filed. Ist party is proceeded ex-parte on 2-5-2012.

3. IInd party management also not filed Written Statement. From Conduct of the parties, it is clear the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:—

"Reference is disposed off as No Dispute Award."

R.B. PATLE, Presiding Officer

नई दिल्ली, 26 मार्च, 2015

का.आ. 644.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14)की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स प्रदीप माइनिंग एवं कंस्ट्रक्शन (पी०) लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 14/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं एल-29012/50/2012-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th March, 2015

S.O. 644.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award (Ref. No. 14/2013) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Pradeep Mining & Construction (P) Ltd. and their workmen, which was received by the Central Government on 20/03/2015.

[No. L-29012/50/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR**

Present:

Shri Pradeep Kumar,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 14/2013

L-29012/50/2012 [IR(M), dated 06.02.2013]

Date of Passing Award—22nd day of December, 2014

Between:

M/s. Pradeep Mining & Construction (P) Ltd.,
Chorda, Jajpur Road, Jajpur,
Odisha ...

...Ist Party-Managements.

And

Shri Ganga Gadasara,
Vill-Badakhatia, PO-Donkarisahi,
Thana-Tomka, Dist-Jajpur,
Odisha

... 2nd Party-Workman.

Appearances:

None. ... For the 1st Party-Management.

None ... For the 2nd Party-workman.

AWARD

This reference was received this Tribunal on 28.2.2013. The 2nd party-workman was required to file the statement of claim in pursuance of the order of reference dated 06.02.2013 within fifteen days from the date of receipt of the order of reference. The 2nd party appeared on several dates and took frequent adjournments. Later on he did not take any steps and remained abasent from the court proceedings. On failure of the 2nd party-workman to file the statement of claim, as notice was issued to him on 21.08.2014. When the 2nd Party workman did not respond

to the notice and filed no statement of claim by the date fixed even after the lapse of 20 (twenty) months it appears that either the 2nd Party workman has lost interest in prosecuting its case or might have settled the dispute with the Management amicably out of the court. In absence of any pleadings raised by the 2nd Party workman no adjudication of dispute can take place.

2. Under the above circumstances this Tribunal is of the view that a no-dispute award is to be passed in the case Accordingly a non-dispute award is passed.

3. The reference is answered in the above terms.

PRADEEP KUMAR, Presiding Officer,

नई दिल्ली, 26 मार्च, 2015

का.आ. 645.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्मेल्टर प्लांट नालको के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 24/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं० एल०-43011/12/2013-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th March, 2015

S.O. 645.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2014) of the Central Government Industrial Tribunal-Cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Smelter Plant NALCO and their workman, which was received by the Central Government on 20.03.2015.

[No. L-43011/12/2013-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri Pradeep Kumar,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 24/2014

L-43011/12/2013-IR(M), dated 18.02.2014

Date of Passing Award—22nd day of December, 2014

Between:

The General Manager,
Smelter Plant, NALCO
PO & Dist-Angul

....Ist Party-Managements

(And)

Their workman represented through the
General Secretary,
Nalco Progressive Employees Union,
Nalco Nagar, Dist-Angul

....2nd Party-Union

Appearances:

For the Ist Party-Management None

For the 2nd Party-Union None

AWARD

This reference was received in this Tribunal on 29.4.2014. The 2nd party-Union was required to file the statement of claim in pursuance of the order of reference dated 18.02.2014 within fifteen days from the date of receipt of the order of reference. But on failure of the 2nd party-Union to file the statement of claim, notices were issued to it on 23.07.2014 and 21.08.2014 by ordinary post. When the 2nd Party-Union did not respond to the notices and filed no statement of claim by the date fixed, a third notice under registered post was issued to it on 11.11.2011 to appear and file the statement of claim. But despite receiving the three notices, the 2nd Party-Union neither turned up in the Tribunal nor taken any step to file the statement of claim. Therefore, it appears that either the 2nd Party-Union has lost its interest in prosecuting the case or might have settled the dispute with the Management amicably out of the court. In absence of any pleadings raised by the 2nd Party-Union no adjudication of dispute can take place.

2. Under the above circumstances this Tribunal is of the view that a no-dispute award is to be passed in the case. Accordingly a no-dispute award is passed.

3. The reference is answered in the above terms.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 26 मार्च, 2015

का.आ. 646.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओ०एम०सी० लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 71/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 20.03.2015 को प्राप्त हुआ था।

[सं० एल०-29011/51/2013-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th March, 2015

AWARD

S.O. 646.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/2013) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of O.M.C. Limited & others and their workman, which was received by the Central Government on 20.03.2015.

[No. L-29011/51/2013-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR****Present:**

Shri Pradeep Kumar,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 71/2013

L-29011/51/2013-IR(M), dated 03.10.2013

Date of Passing Award—22nd day of December, 2014

Between:

1. The Manager (Geology), F&E In-charge,
Head Office, OMC Ltd., OMC House
Bhubaneswar, Odisha
.... Ist Party-Managements
2. The Regional Manager,
Daitari Iron Ore Project of M/s. OMC Ltd.,
At/PO-Talapada, Dist-Keonjhar, Odisha
3. Shri S.K. Samal, MD
Kalinga Commercial Corporation,
Camp at Daitari, At/PO-Talapada,
Dist-Keonjhar, Odisha
4. Shri Arun Agarwal,
M/s. Arun Udyog,
Camp at Daitari, At/PO-Talapada,
Dist-Keonjhar, Odisha

(AND)

The President, 2nd Party Union
Daitari Region Mines Workers and
Transport Labour Association,
C/o-OMC Ltd., Daitari Iron Ore Project,
PO-Talapada, Dist-Keonjhar, Odisha

Appearances:

For the Ist Party-Managements	None
For the 2nd Party-Union	None

This reference was received in this Tribunal on 18.10.2013. The 2nd party-Union was required to file the statement of claim in pursuance of the order of reference dated 03.10.2013 within fifteen days from the date of receipt of the order of reference. On failure of the 2nd party-Union to file the statement of claim, two notices were issued to it on 20.02.2014 and 01/04.08.2014 through ordinary post. When the 2nd Party-Union did not respond to the notice and file no statement of claim by the date fixed even after the lapse of about one year, a notice under registered post was issued to him on 07.11.2014. But, neither the 2nd party Union appeared nor any statement of claim filed on his behalf. It appears that either the 2nd Party-Union has lost interest in prosecuting its case or might have settled the dispute with the Managements amicably out of the court. In absence of any pleadings raised by the 2nd Party-Union no adjudication of dispute can take place.

2. Under the above circumstances this Tribunal is of the view that a no-dispute award is to be passed in the case. Accordingly a no-dispute award is passed.

3. The reference is answered in the above terms.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 26 मार्च, 2015

का०आ० 647.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स प्रदीप माइनिंग एवं कंस्ट्रक्शन (पी०) लिमिटेड के प्रबंधन के संबंध में निम्नलिखित विवादों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 17/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं० एल०-29012/47/2012-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th March, 2015

S.O. 647.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No. 17/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Pradeep Mining & Construction (P) Ltd. and their workman, which was received by the Central Government on 20.03.2015.

[No. L-29012/47/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri Pradeep Kumar,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 17/2013

L-29012/47/2012-IR(M), dated 06.02.2013

Date of Passing Award—22nd day of December, 2014

Between:

M/s. Pradeep Mining & Construction (P) Ltd.,
Chorda, Jajpur Road, Jajpur,
Odisha

....Ist Party-Management

(And)

Shri Raghunath Mohanta,
Vill-Bandagaon, PO-Damodharpur,
Sukinda, Dist-Jajpur, Odisha

.... 2nd Party-Workman

Appearances:

For the Ist Party-Management None

For the 2nd Party-Workman None

AWARD

This reference was received in this Tribunal on 28.2.2013. The 2nd party-workman was required to file the statement of claim in pursuance of the order of reference dated 06.02.2013 within fifteen days from the date of receipt of the order of reference. The 2nd party appeared on 22.7.2013 on being noticed through registered post and took adjournment. Later on he did not take any step and remained absent from the court proceedings. On failure of the 2nd party-workman to file the statement of claim, a notice was issued to him on 04.08.2014. Since the 2nd party workman did not appear on the date fixed, he was again noticed through registered post on 07.11.2014. When the 2nd Party workman did not respond to the notice and filed no statement of claim by the date fixed even after the lapse of 21 (twenty one) months it appears that either the 2nd Party workman has lost interest in prosecuting its case or might have settled the dispute with the Management amicably out of the court. In absence of any pleadings raised by the 2nd Party workman no adjudication of dispute can take place.

2. Under the above circumstances this Tribunal is of the view that a no-dispute award is to be passed in the case. Accordingly a no-dispute award is passed.

3. The reference is answered in the above terms.

PRADEEP KUMAR, Presiding Officer

नई दिल्ली, 26 मार्च, 2015

कांआ 648.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स लाराओन इन्जिनियरिंग एवम् कन्स्ट्रक्शन प्रा. लिमिटेड के प्रबंधन के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 15/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.03.2015 प्राप्त हुआ था।

[सं एल 30012/31/2013-आई. आर. (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th March, 2015

S.O. 648.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2014) of the Central Government Industrial Tribunal/Labour Court 2, Chandigarh now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of M/s. Laraon Engineering & Consultant Private Limited and their workman, which was received by the Central Government on 20.03.2015.

[No. L-30012/31/2013-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present:

Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 15/2014

Registered on 24.6.2014

Sh. Manipal Singh Rana,
S/o Sh. Jodh Singh Rana, ex. Operator,
Village & Post—Muana, Tehsil Safidon,
District Jind, Haryana.

Petitioner

Versus

Sh. Ranjan Kumar Dhingra, MD,
M/s Laraon Engineering & Consultant Pvt. Ltd.
683, Udyog Vihar, Phase V, Gurgaon (Haryana).

Respondents

APPEARANCES

For the workman In person.

For the Management Sh. J.K. Srivastav,
Site In-charge.

AWARD

Passed on 30.9.2014

Central Government *vide* Notification No. L-30012/31/2013-IR(M) Dated 5.6.2014, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of M/s Laraon Engineering & Consultant Pvt. Ltd., Gurgaon in terminating the services of Sh. Mainpal Singh Rana S/o Sh. Jodh Singh Rana, Ex. Workman *w.e.f.* 21.3.2012 is legal and justified? What relief the workman is entitled to?

In response to the notice, the workman and Sh. A.K. Shrivastav, representative of the management appeared. Workman made statement, recorded separately, that he has settled the dispute with the management after receiving 49,084/- and his claim stands settled. He has also placed on record the photocopy of the settlement Exhibit C1.

In view of his statement the reference is answered accordingly that the claim of the workman has been settled and he is not entitled to any relief in this reference. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 26 मार्च, 2015

का०आ० 649.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन आयल कारपोरेशन लिमिटेड के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 847/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.03.2015 प्राप्त हुआ था।

[सं० एल० 30012/29/2001-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th March, 2015

S.O. 649.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 847/2005) of the Central Government Industrial Tribunal/Labour Court 2, Chandigarh now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 20.03.2015.

[No. L-30012/29/2001-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH**

Present :

Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 847/2005

Registered on 8.9.2005

Sh. Rishpal Singh, S/o Sh. Manni Ramji,
VPO Halwara, District Ludhiana.

Petitioner

Versus

1. M/s Indian Oil Corporation Limited, Aviation Fuel Station Halwara, Distt. Ludhiana through its Senior Depot Manager.
2. M/s Indian Oil Corporation Limited, G-9, Ali Yavar Jang Marg, Bandra (East) Bombay through its Managing Director.

Respondents

APPEARANCES

For the workman Sh. B.N. Sehgal, Adv.

For the Management Sh. Paul S. Saini, Adv.

AWARD

Passed on 22.1.2015

Central Government *vide* Notification No. L-30012/29/2001-IR(M) Dated 18.6.2001, by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the Station Manager, Aviation Fuel Station, Halwara (IOC) in not employing Sh. Rishpal Singh S/o Sh. Mannu Ramji as a regular worker of IOC is just and legal? If not, to what relief as the concerned workman is entitled to and from which date?

In response to the notice, the workman submitted statement of claim pleading that he was appointed as Sweeper-cum-Helper at Aviation Fuel Station of the respondent management on 9.12.1982 and was drawing salary of Rs. 2600/- per month. That his services were illegally terminated on 1.3.1997 without serving him any notice or payment of any compensation. That he requested for regularization of his services and Sh. M.K. Syal, Senior Station Manager recommended his case *vide* his letter dated 26.6.1991. He made several request to regularize his services and instead of doing the needful, his services were arbitrarily terminated. That he be reinstated in service.

Respondent management file written reply pleading that the workman was performing the housekeeping maintenance/grass cutting services on contract basis for one or two hours everyday on a fixed amount. The contract was revised from time to time. It is further pleaded that rates for performing the job were finalized on the basis of quotations received from different parties and since the rates of the workman were used to be lower, he used to get the contract. It is further pleaded that there was no relationship of employer and employee between the parties. The workman never applied for any appointment nor he was selected by the respondent management. The assertions made by him are false. His contract was terminated *w.e.f.* 1.3.1997 due to unsatisfactory services.

Parties were given opportunities to lead their evidence.

In support of his case the workman appeared in the witness box and filed his affidavit. He has also placed on record recommendation letter Exhibit W4 whereby the Senior Station Manager, Halwara made recommendations for regularization of his services as a casual worker.

On the other hand, the management has examined Sh. Stephen Ekka who filed his affidavit reiterating the stand of the respondent management taken in the written statement. He has also placed on record documents Mark A to F.

I have heard Sh. B.N. Sehgal, counsel for the workman and Sh. Paul. S. Saini, counsel for the management and have gone through the file carefully.

It was contended by the learned counsel that workman is an employee of the respondent management having worked there from 9.12.1982 to 1.3.1987. That his case for regularization of services was also recommended by the Senior Station Manager *vide* letter dated 26.6.1991 (Exhibit W4). His services were terminated arbitrarily without serving any notice and payment of retrenchment compensation and he is entitled to reinstatement in service.

I have considered the contention raised by the learned counsel.

It may be added at the outset that the reference is whether action of the Station Manager, Aviation Fuel Station, Halwara in not employing the workman as regular worker is just and legal. No averment has been made in the statement of claim that the workman is entitled to work as a regular worker of the IOC. Again there is nothing to show that the Station Manager was empowered to employ the workman as a regular worker of the respondent management. In the absence of any pleading and any evidence thereon that the workman is entitled for regularization of his services and the Station Manager was competent to do the needful, it cannot be said that workman is entitled to any relief as claimed by him.

In view of the definite terms of the reference as reproduced in the beginning of the award, the question whether workman worked for the respondent management as on employer or on contract need no determination.

In result, it is held that workman has failed to prove that he is entitled to work as a regular worker of the respondent management and the Station Manager, Aviation Fuel Station, Halwara was competent to employ him as such. Being so, the reference is answered against the workman and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer.

नई दिल्ली, 26 मार्च, 2015

का०आ० 650.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्श्युरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2 चंडीगढ़ के पंचाट (संदर्भ संख्या 16/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं० एल०-17012/49/2014-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th March, 2015

S.O. 650.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2014) of the Central Government Industrial Tribunal/Labour Court No. 2, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 20.03.2015.

[No. L-17012/49/2014-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present:

Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 16/2014

Registered on 24.06.2014

Sh. Susheel Sontе,

R/o House No. 27, Valmiki Colony,
Gandhi Nagar, Jammu (J&K), Jammu.

.....Petitioner

Versus

New Delhi, the 27th March, 2015

1. The Chairman, LIC of India, Jeevan Beema Marg, Post Box No. 11709, Mumbai.
2. The Zonal Manager, Life Insurance Corporation of India, Northern Zonal Office, Jeevan Bharti Building, Post Box No. 630, Connaught Circus, New Delhi-110001
3. Sr. Divisional manager, Life Insurance Corporation of India, Divisional Office, Jeevan Jyoti Building Bahu Plaza Rail Head, Jammu-180012

.....Respondents

APPEARANCES

For the Workman Ex parte..

For the Management: Shri P.K. Longia, Adv.

AWARD

Passed on 13.1.2015

Central Government *vide* Notification [No. L-17012/49/2014-IR(M)] Dated 10.06.2014, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:—

"Whether the action of the management of Sr. Divisional Manager, LIC of India, Jammu in terminating the services of Sh. Susheel Sontе *w.e.f.* 25.7.2012 is legal and justified? What relief the workman is entitled to?"

Notice was sent to the workman but he did not appear and was proceeded against *ex parte vide* order dated 15.10.2014. Since the workman was proceeded against *ex parte*, no statement of claim was filed. Thus, in the absence of any statement of claim, the reference is answered holding that the action of the management is legal and justified and workman is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का.आ. 651.—राष्ट्रपति, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, भुवनेश्वर के रिक्त पद हेतु लिंक अधिकारी के रूप में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, जबलपुर के पीठासीन अधिकारी श्री राधेश्याम बापूजी पाटले को छः माह की अवधि तक अथवा नियमित पदधारण की नियुक्ति होने तक, इनमें से जो भी पहले हो तब तक के लिए अतिरिक्त कार्यभार सौंपते हैं।

[सं ए-11016/03/2009-सीएलएस-II]

एस० के० सिंह, अवर सचिव

S.O. 651.—The President is pleased to entrust the additional charge of the post of Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar to Shri Radheyshyam Bapuji Patle Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Jabalpur for a period of six months or till the post is filled on regular basis whichever is earlier.

[No. A-11016/03/2009-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 27 मार्च, 2015

का.आ. 652.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कृषक भारती कोऑपरेटिव लिमिटेड (कृभको) के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 20 मई, 2015 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (i) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित

रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

6. विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं एस्-38014/3/2014-एस्. एस्-I]

अजय मलिक, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 652.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby

exempts the regular employees of factories/establishments of Krishak Bharati Cooperative Ltd. (KRIBHCO) from the operation of the said Act. The exemption shall be effective w.e.f. 20.05.2015 for a period of one year.

2. The above exemption is subject to the following conditions namely:—

(1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refundable;

(4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employee's State Insurance (General) Regulations, 1950;

(5) Any Social Security Officer appointed by the Corporation under sub-section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—

(i) Verifying the particulars contained in any returned submitted under sub-section (1) of Section 44 for the said period; or

(ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

(a) require the principal or immediate employer to him such information as he

may consider necessary for the purpose of this Act; or

- (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
- (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
- (e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/3/2014-SS-I]

AJAY MALIK Under Secy.

नई दिल्ली, 27 मार्च, 2015

का.आ. 653.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा हिन्दुस्तान एन्टीबायोटेक्स लि., पिम्परी, पुणे के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 30 मार्च, 2015 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;

(3) छूट प्राप्त अधिकारी के लिए यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;

(4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;

(5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;

(i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा

(ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए गये थे या नहीं; या

(iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-

(क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा

(ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में

पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

6. विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/15/2013-एस एस-I]

अजय मलिक, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 653.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Hindustan Antibiotics Ltd., Pimpri, Pune from the operation of the said Act. The exemption shall be effective w.e.f. 30.03.2015 for a period of one year.

2. The above exemption is subject to the following conditions namely:—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees';
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returned in such forms and containing such particulars as were due from it in respect of the said period under the Employee's State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—

- (i) Verifying the particulars contained in any returned submitted under sub-section (1) of

section 44 for the said period; or

- (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
- (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
- (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
 - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/15/2013-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 27 मार्च, 2015

AWARD

का.आ. 654.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, दिल्ली के पंचाट (संदर्भ संख्या 36/2013) प्रकाशित करती हैं जो केन्द्रीय सरकार को 20/3/2015 को प्राप्त हुआ था।

[सं. एल-30012/75/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 654.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 36/2013) of the Central Government Industrial Tribunal/Labour Court 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 20.3.2015.

[No. L-30012/75/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT
NO. 1, KARKARDOOMA COURT COMPLEX,
DELHI**

ID No. 36/2013

Shri Ajmer Singh,
S/o Shri Chotte Lal,
R/o Village and Post Office Karorr,
Distt. Rohtak,
HARYANA

...Workman

Versus

1. The Manager,
Indian Oil Corporation Ltd.
Indane Gas Terminal,
Tikri Kalan Plant, Ghevera More,
Delhi-110041
2. M/s. Beehive Security & Surveillance,
House No. 43, Rathni Enclave,
New Roshan Vihar,
Kakraola More, Najafgarh,
Delhi-110043

...Management

Central Government, vide letter No. L-30012/75/2012-IR(M) dated 06.02.2013, referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of M/s Beehive Security and Surveillance in terminating the services of Shri Ajmer Singh, S/o Shri Chotte Lal from IOC Depot, Tikri Kalan, Delhi with effect from 30.09.2011, is legal and justified ? What relief the workman is entitled to?

2. On receipt of the above reference, notice was sent to the workman as well as the management. None appeared on behalf of the claimant. As such, this Tribunal ordered issuance of fresh notice to the workman. Despite sending notice by registered A.D., neither the workman nor any authorized representative on his behalf appeared before the Tribunal so as to pursue his case. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

3. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का.आ. 655.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बजाज एलियांज लाइफ इन्श्योरन्स कंपनी लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, दिल्ली के पंचाट; (संदर्भ संख्या 95/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.3.2015 को प्राप्त हुआ था।

[सं. एल.-17012/8/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 655.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 95/2013) of the Central Government Industrial Tribunal/Labour Court 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bajaj Allianz Life Insurance Company Limited and their workman, which was received by the Central Government on 20.3.2015.

[No. L-17012/8/2013-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, KARKARDOOMA COURT COMPLEX,
DELHI**

ID No. 95/2013

Shri Ashok Kumar Gupta,

House No. 199, L Extension,

Mohan Garden,

New Delhi-110059

...Workman

Versus

M/s Bajaj Allianz Life Insurance Company Ltd.,

4th and 5th Floor, Mahatta Tower,

54, B-Block,

Community Centre, Janakpuri,

New Delhi-110058

...Management

AWARD

Central Government vide letter No. L-17012/8/2013-IR(M) dated 15.05.2013, referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management in terminating the services of the workman Shri Ashok Kumar Gupta, S/o Shri Sudershan with effect from 30.06.2009 is illegal and/or unjustified. If yes, to what relief the workman is entitled and what directions are necessary in this respect ?

2. On receipt of the above reference, notice was sent to the workman as well as the management. None appeared on behalf of the claimant. As such, this Tribunal ordered issuance of fresh notice to the workman. Despite sending notice by registered A.D., neither the workman nor any authorized representative on his behalf has appeared before the Tribunal so as to pursue his case. Thus, it is clear that the workman is not interested in the adjudication of the reference on merits.

3. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का०आ० 656.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बजाज एलियांज लाइफ इन्शुरन्स कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, दिल्ली के पंचाट (संदर्भ संख्या 111/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.3.2015 को प्राप्त हुआ था।

[सं० एल-17011/5/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 656.—In pursuance of Section 17 of the Industrial Disputes Act, 1947(14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 111/2012) of the Central Government Industrial Tribunal/Labour Court 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bajaj Allianz Life Insurance Company Limited and their workman, which was received by the Central Government on 20/3/2015.

[No. L-17011/5/2012-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, KARKARDOOMA COURT COMPLEX,
DELHI**

ID No. 111/2012

The General Secretary,

Indian Steel Metal Worker's Union,

1800/9, Govindpuri Extension, Main Road,

Kalkaji, New Delhi

...Workman

Versus

1. The Director,
M/s Bajaj Allianz Life Insurance Company Ltd.,
32, Community Centre, 3rd Floor,
New Friends Colony,
New Delhi-110065

2. The Manager,
M/s Bajaj Allianz Life Insurance Company Ltd.
B-37/38, 1st Floor, Connaught Place,
New Delhi

...Management

AWARD

Central Government, vide letter No. L-17011/5/2012-IR(M) dated 11.09.2012, referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of M/s Bajaj Allianz Life Insurance in terminating the services Shri Yogesh Kumar, Sales Executive with effect from 01.12.2008 is legal and justified ? What relief the workman is entitled to ?

2. On receipt of the above reference, notice was sent to the workman as well as the management. None appeared on behalf of the claimant. As such, this Tribunal ordered issuance of fresh notice to the workman. Despite sending several notices, neither the workman nor any authorized representative on his behalf has appeared before the Tribunal so as to pursue his case. Thus, it is clear that the workman is not interested in the adjudication of the reference on merits.

3. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का०आ० 657.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गल्फ ऑयल कारपोरेशन लिमिटेड एवम अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, मुंबई के पंचाट (संदर्भ संख्या 33/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/3/2015 को प्राप्त हुआ था।

[सं. एल-30015/9/2007-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 33/2007) of the Central Government Industrial Tribunal/Labour Court 2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Gulf Oil Corporation Limited & Others and their workman, which was received by the Central Government on 20/3/2015.

[No. L-30015/9/2007-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

PRESENT : K. B. KATAKE, Presiding Officer

Reference No. CGIT-2/33 of 2007

Employers in relation to the management of
Gulf Oil Corporation Ltd. & 3 ORS.

1. M/s. Gulf Oil Corporation Ltd.
Lubricants Division In Centre
49/50 MIDC, 12th Road Andheri (E)
Mumbai -400 093
2. M/s. Om Enterprises
Juhi Nagar Station Complex Shop No. GO 12,
Juhi Nagar,
Navi Mumbai -400 706
3. M/s. Sagar Enterprises
Juhi Nagar Station Complex Shop No. GO 12
Juhi Nagar,
Navi Mumbai- 400706
4. M/s. Satguru Enterprises
C/o M/s. Gulf Oil Corporation Ltd.
Lubricants Division In Centre
49/50 MIDC, 12th Road Andheri (E)
Mumbai-400 093.

AND

Their workmen

The General Secretary
General Employees Association
Tel Rasayan Bhavan
Tilak Road, Dadar
Mumbai-400 014.

APPEARANCES:

For the Employer No. 1 Mr. P.C. Pavaskar,
Advocate.

For the Employer Nos. 2 to 4 No appearance

For the Union R.D. Bhat,
Advocate.

Mumbai, dated the 22nd December, 2014.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-30015/9/2007-IR (M), dated 11.07.2007 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the

following industrial dispute to this Tribunal for adjudication:

"Whether the demand of the union for reinstatement of Shri Sudhakar Parte in services w.e.f. 06/03/2007 and his absorption/regularisation in service as 'permanent' workman with the management of M/s. Gulf Oil Corporation Ltd. w.e.f. 20.01.1997 is legal, proper and justified? If so, to what relief Shri Sudhakar Parte is entitled to and from which date?"

2. After receipt of the reference, notices were issued to both the parties. In response to the notice, second party union has filed its statement of claim at Ex-9. According to the Union Mr. Sudhakar Parte was in the employment of the first party from 20/01/1997 as Office Assistant. He was entitled to get the permanent post of Office Assistant. He requested the first party to make him permanent and to extend him all consequential benefits. He was told that his case was under consideration. However instead of confirming him in the service as a permanent employee, first party started making payment of wages to the workman through its contractors M/s. Satguru Enterprises from October 2000 to December 2001. Thereafter M/s. Sagar Services from January 2002 to December 2003 and through Om Enterprises from January 2003 to February 2005. Second party workman was attending the duty and doing the work which is of perennial nature. He was under the control and supervision of the officers of the first party. The first party inducted the contractors merely to deprive the workman from getting the benefits of permanency. It amount to unfair labour practice. Therefore the second party filed a complaint to Labour Court Mumbai. However the said complaint was withdrawn and disposed of for want of jurisdiction as Central Government was the appropriate Government and Labour Court, Mumbai has no jurisdiction. The union raised industrial dispute and as per direction of Hon'ble Bombay High Court in Writ Petition there was conciliation proceeding. Before commencement of conciliation proceeding as suggested by Hon'ble High Court, the first party had refused employment to the workman w.e.f. 5/3/2007. Conciliation officer called both the parties. However due to adamant view of first party, conciliation failed. As conciliation failed, as per the report of ALC (C), the Ministry of Labour & Employment sent the reference to this Tribunal. The second party therefore prays that, the termination of services of the workman be declared illegal and in violation of principles of natural justice and in violation of provisions of Section 9-A of I.D. Act. The second party also prays for declaration that the arrangement to make payment through contractor be declared illegal and void. He also prays that his termination be declared in violation of Section 25-F of I.D. Act 1947. The second party also prays for declaration that he be declared as permanent workman of first party as provided under Model Standing Order. Second party also prays that the action of the first party be declared as unfair labour practice as contemplated

under Section 25-T of I.D. Act 1947. Second party also prays that the workman be reinstated w.e.f. 6/3/2007 as permanent employee w.e.f. 20/1/1997 and also pray to give all consequential benefits.

3. The first party management resisted the statement of claim vide their Written statement at Ex-11. According to them the union has no membership of workmen employed in the company's establishment at Mumbai and the union is stranger for the company's employees. Therefore the reference is not tenable. It is further contended that there is no employer-employee relationship between the company and the workman as the workman was employee of M/s. Om Enterprises. Thus dispute is not tenable. The company has not terminated the services of the workman. M/s. Om Enterprises has shifted him elsewhere from the establishment of the company. Before Om Enterprises, the workman was employed by M/s. Sagar Enterprises and there prior he was employed by M/s. Sadguru Enterprises. Therefore the demand of the workman for reinstatement and permanency is not tenable in law. They denied that contracts are 'camouflage and entered into merely to deprive the workman from the benefit of permanency. They denied that they have illegally terminated the services of the workman. According to them he was not their employee, therefore question of termination does not arise. They denied all the contentions in respect of employment and termination of the workman and submitted that neither the workman can be reinstated nor eligible to get permanency in the services of the company as he was never recruited by the company. Therefore they pray that the reference deserves to be dismissed with cost.

4. Following are the issues for my determination. I record my findings thereon for the reasons to follow.

Sl. No.	Issues	Findings
1.	Is reference bad in law as calculated by first party in para 2 of its written statement?	No.
2.	Does second party union prove that there was employer-employee relationship and union has any reason to espouse the cause?	Yes.
3.	Whether union prove that employee involved in the reference is entitled to be reinstated w.e.f. 6/3/2007 with full back wages?	Partly yes.
4.	Whether the workman is entitled for permanency in the employment of first party w.e.f. 20/1/1997	Partly yes.
5.	What order?	As per order below.

REASONS

Issue No. 1:—

5. The first party has raised objection to the reference and pleaded that the union in question has no locus standi

to espouse the cause as the said union is not at all functioning in their company. According to them except the workman, no other employee is member of the said union and the union has no right to raise the dispute. In this respect I would like to point out that workman has raised the dispute and claimed that first party has terminated him from their services illegally. In the circumstances even without the help of union the workman was well entitled to raise the dispute. In the circumstances it becomes unnecessary exercise as to whether the union has power to espouse the cause and raise the dispute' as the workman himself is entitled to raise the dispute as he claims that his services were terminated illegally. Therefore it becomes irrelevant to see whether the union is functioning in the establishment of the company or not and whether it can raise the dispute. In the circumstances the reference cannot be said bad. Accordingly I decide this issue no. 1 in the negative.

Issue no. 2:—

6. It is the case of the workman that he was in the employment of the company since 20.01.1997. According to him on 07/01/1998 he requested the company to issue appointment letter to him as a permanent workman. Thereafter since October 2000 the Corporation started making salary of the workman through M/s. Sadguru Enterprises and since January 2002 to December 2003 through M/s. Sagar services and from January 2003 to February 2007 through M/s. Om Enterprises. According to the workman initially since January 1997 upto October 2000 the Corporation was paying him salary directly. As he started claiming for permanency, Corporation has inducted the contractors and started paying salary through the contractors and he is shown as employee of contractor. Infact he was the employee of the Corporation. In this respect it was pointed out by the Ld. Adv. for the first party that, workman has admitted in his cross that, first party never issued temporary or permanent or any type of appointment letter to him. He further pointed out that the workman has admitted in his cross examination that, he was working with first party no.4 *i.e.* Satguru Enterprises and ESI Card was also issued by first party no.4. He also admitted that thereafter Sagar Enterprises was making his payment and was also deducting the amount of his PF. He also admitted that he has also worked with Om Enterprises, first party no.2 and they were making his payment. In this respect I would like to point out that specific question was put to him that he lastly worked with Om Enterprises the worker has replied that payment was made by Om Enterprises but he was working with Gulf Oil. He denied that Om Enterprises has deputed him to work with Gulf Oil Corporation. From the replies in the cross examinations of the workman at Ex-21, it is revealed that he has not denied that, he has receiving the pay from the respective contract agencies. However according to him he was working for and with Gulf Oil Corporation. In this respect I would also

like to point out that the workman was working continuously with Gulf Oil Corporation whereas contractors were periodically changed. It indicates that, the contractors were inducted periodically by the first party No. 1 after gap of 2-3 years. It is one of the factors indicating the fact that contract agreements were sham and bogus.

7. In this respect Ld. Adv. for the first party submitted that at the most it can be said that the workman has surrendered to the agency which deputed him to work with the Corporation. In such circumstances he cannot be called employee of the Corporation. In support of his argument, Ld. Adv. for the first party resorted to Andhra Pradesh High Court ruling in Deccan Chronicle V/s. G.P. Reddy and others. 2004 (3) LLM 916. In that case the workman therein had surrendered to the Security Agency which deputed him to the Company to do the security duty. When workman raised industrial dispute, Labour Court held that surrendering respondent to Security Agency amount to termination of his services and it was without justifiable cause, hence directed to reinstate him with full back wages. The said award of the Tribunal was set aside by Hon'ble A.P. High Court with an observation that;

"Workman has failed to establish that, the petitioner's management appointed him as Security Guard."

8. With this observation Hon'ble High Court has set aside the award of the Tribunal. However in the case at hand the facts are quite different than the facts in the case referred above. In this respect would like to point out that, the first party Corporation herein has not denied the fact that, the workman was working with them as Office Assistant since January 1997 till 2000 and he was getting his pay and allowances directly from the first party no. 1. This version of the workman is not denied by the witness of the Corporation nor it was challenged in the cross examination of the workman. In the circumstances, it is clear that initially the workman was appointed by the first party Corporation in 1997 and since October, 2000 onwards the Corporation started inducting contractors periodically.

9. On the point Ld. Adv. for the first party also referred Apex Court ruling in International Airport Authority of India V/s. International Air Cargo Union & Anr. 2009-IV-LLJ-31(SC) wherein Hon'ble Court held that the contract labour agreement in question not shown as nominal. Therefore workman employed as contract labourer not entitled to claim absorption. However in the case at hand initially the workman was appointed by the Corporation itself in 1997. He worked for more than 2 and half years and thereafter Corporation started inducting contractors. There were even no written agreements in that respect. It indicates the contract labour agreements were sham and bogus. Therefore the ratio laid down in the above ruling is also not attracted to the set of facts of the present case.

10. In this respect the Ld. Adv. for the second party submitted that, initially Corporation has employed the workman. When he started demanding permanency, Corporation has started inducting contractors and started paying his wages through them. It amounts to violation of Section 9-A of I.D. Act. In support of his argument the Ld. Adv. for the second party resorted to Apex Court ruling in *Workmen of Food Corporation of India V/s. M/s. Food Corporation of India AIR 1985 SC 670*. In respect of such change in starting payment through contractor in para 3 of the judgement Hon'ble Court observed that;

"By cancelling the direct payment system and introducing the contractor, both the wages and the mode of payment are being altered to the disadvantage of the workman. Therefore obviously a notice of change was must before introducing the change. Otherwise, it would be an illegal change. Any such illegal change invites a penalty under Section 31(2) of the I.D. Act, 1947. Such a change which was punishable as a criminal offence would obviously be an illegal change. Thus an illegal change would be wholly ineffective"

11. In the case at hand the workman was employed by the Corporation in 1997. He worked till October 2000 as employee of the Corporation and he was receiving his pay directly from the Corporation. As workman started demanding permanency, Corporation has started inducting various contractors since October 2000 onwards. This change was without notice and in violation to Section 9 A of I.D. Act. Therefore it is illegal. Furthermore the workman was the same person working with the Corporation and contractors were changed periodically. It also indicates sham and bogus nature of the contracts. In this back drop I come to the conclusion that the workman is employee of the first party Corporation and the union has rightly raised the dispute. Accordingly I decide this issue no.2 in the affirmative.

Issues nos. 3 & 4:—

12. From the discussions and findings on above issue no.2, it is held that the workman was the employee of the first party no. 1 Corporation. From the above discussion it is also revealed that workman has worked continuously from 1997 to 2007 as Office Assistant. As the workman had worked continuously for more than 240 days in every calendar year, he gets protection under Section 25F of I.D. Act. In the case at hand services of the workman were terminated without following the procedure prescribed under Sec. 25F of the I.D. Act. Neither he was removed from service after conducting any domestic inquiry nor he was found guilty for any misconduct. Therefore the termination of services of the workman cannot be called legal and valid. In this respect the Ld. Adv. for the first party submitted that as the workman was a contract labourer he cannot seek permanency or absorption in the public

undertaking. In support of his argument the Ld. Adv. resorted to Apex Court ruling in *Steel Authority of India V/s. Union of India & Ors. 2006 III LLJ 1037*. In that case Hon'ble High Court under writ jurisdiction directed absorption of contract workers as regular employees of the principal employer. The Hon'ble Apex Court in this judgement held that, neither the Labour Court nor the Writ Court could give such direction to absorb the contract labourers.

13. In the case at hand the facts are different and the workman herein was held not a contract labourer but direct employee of the first party no. 1. Therefore the ratio laid down in this ruling is not attracted to the set of facts of the present case.

14. The Ld. Adv. for first party also referred Apex Court ruling in *National Thermal Power Corporation & Ors. V/s. Bhadri Singh Thakur & Ors. 2009 I LLJ 198*. In that case, direction was sought for absorption of contract labourer. Single Judge of Hon'ble High Court rejected the prayer by saying that there was no notification issued by appropriate Govt. The judgement and order was reversed by Division Bench by observing that;

"In view of the provisions of Section 10 of the Act it is only the appropriate Govt. which has the authority to abolish genuine Labour Contract in accordance with the provisions of the said Section. No Court including the Industrial Adjudicator has jurisdiction to do so. Therefore the order passed for absorption in absence of notification by appropriate Govt. is unsustainable."

15. With this observation the Hon'ble Apex Court held that view taken by single judge is sustainable. In the case at hand neither any such direction was sought nor the workman is found contract labourer. Therefore ratio in this ruling is also not attracted to the set of facts in the case at hand. In the case at hand workman is held to be the employee of the first party no. 1 and the labour contracts were found sham, bogus and mere camouflage merely to deprive the workman from getting the right of permanency. Therefore I hold that the workman is well entitled to be reinstated in the service with continuity from 6/3/2007. The first party may make him permanent after the two years' probation period from the date of his initial appointment.

16. In respect of back wages, according to the first party the workman is gainfully employed. He has admitted in his cross examination that, he is doing some work to maintain his family and earning Rs.4000 p.m. He has admitted that he is working with Penta Corporate Services since 2007-08. He has denied that he is drawing salary of Rs.9000 p.m. He has shown readiness to produce his pass book. He has produced the copy of his pass book. It shows that the workman is gainfully employed. However he was terminated illegally and may have been unemployed for few months,

and initially he may not have received sufficient wages. Furthermore he was required to fight the unpleasant legal battle. In the circumstances, Ld. Adv. for the second party submitted that, for gainful employment at the most backwages can be reduced proportionately and he should not be denied back wages in toto. In support of his argument, the Ld. Adv. referred Apex Court ruling in Metropolitan Transport Corporation V/s. V. Venkateshan 2009 AIR SCW 5855. In that case the workman therein was found to be gainfully employed when he was out of service. Therefore the Hon'ble Court observed that,

"To meet the end of justice, back wages liable to be reduced proportionately."

17. In this back drop as the workman herein is gainfully employed and earning some meagre amount to meet the two ends, therefore, I think it proper to award him 10% back wages with continuity of service. Accordingly I partly allow the reference and proceed to pass the following order:

ORDER

- (i) The reference is partly allowed with no order as to cost.
- (ii) Termination of services of second party workman is hereby declared illegal and void.
- (iii) The first party no. 1 is directed to reinstate him and pay the wages and allowances at par with regular Office Assistants with 10% back wages and continuity of service since 6/3/2007.
- (iv) The first party no. 1 is also directed to consider the workman for permanency after completion of probation period of two years from the date of his initial appointment *i.e.* 20.01.1997.

Dated : 22-12-2014 K. B. KATAKE, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का.आ. 658.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शुरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 29/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं एल-17012/8/2006-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 658.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award (Ref. I.D. No. 29/2006) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Life Insurance Corporation of India and their workman, which was received by the Central Government on 20/3/2015.

[No. L-17012/8/2006-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

CASE No. CGIT/LC/R/29/2006

Shri R.K. Dahia,
S/o Shri Ramadhar Dahia,
Near Kamlesh Floor Mills,
New Basti, Tikuria Tola,

Satna (MP)

....Workman

Versus

Sr. Mandal Manager,
LIC of India,
Mandal Office, Krishna Complex,
Krishna Nagar,
Satna (MP)

....Management

AWARD

Passed on this 10th day of March, 2015

1. The Government of India, Ministry of Labour *vide* its Notification No. L-17012/8/2006-IR(M) dated 20-7-06 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Sri Ramkushal Dahia S/o Shri Ramadhar Dahia, Daily rated workman after working from March 96 to 30-9-2005 is legal? If not, to what relief the concerned workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 6/1 to 6/4. Case of workman is that he was working as peon in account branch of IInd party from March 1996 till 30-9-05. He was continuously working. He was paid minimum wages prescribed by Collector Office. He worked with devotion. The services of workman were terminated by IInd party without notice. He was not paid retrenchment compensation. Termination of his service is in violation of Section 25-F of ID Act. Other junior employees were continued in service. Workman was not provided employment. The list of daily rated employees was not

displayed on notice board. Thereby IInd party violated provisions of Section 25-G, H & Rules 77, 78 of ID Act.

3. Ist party workman further submits that after completion of service more than six months he acquired status of regular employee. His services orally terminated without notice, without conducting enquiry is illegal. On such grounds, workman prays for his reinstatement with back wages.

4. IInd party submitted Written Statement at Page 9/1 to 9/3 opposing claim of the workman. IInd party submits that workman was engaged as waterman for 85 days from 16-4-96 to 9-7-96. Workman was not working as peon. Any appointment orders were not issued to them. He was not terminated. After completion of 85 days period, his service had come to end. That workman had not completed 240 days continuous service. The provisions of Section 25-F, G, H & Rules 77, 78 are not applicable. Workman was engaged as casual employee for 85 days. Workman had not completed 240 days continuous service therefore he is not entitled to protection of ID Act. It is denied that other junior employees are continued. IInd party prays for rejection of claim with cost of Rs. 5000/-.

5. Workman submitted rejoinder at Page-10 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|----------------------|
| (i) whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Ramkushal Dahia S/o Shri Ramadhar Dahia, Daily rated workman after working from March 96 to 30-9-2005 is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final orders. |

REASONS

7. Workman is challenging termination of his service for violation of Section 25-F, G, H & Rules 77, 78. IInd party submits that workman was casually engaged for 85 days. He had not completed 240 days continuous service. Workman is not entitled to protection of ID Act.

8. Workman filed affidavit of his evidence covering his contentions in statement of claim. That he was working with IInd party from 16-4-04 till 30-9-95. He had completed more than 240 days continuous service. He was paid wages

under voucher. Sometimes the wages were paid by vouchers in name of different persons. He was required to sign those vouchers. His services are orally terminated without notice, he was not paid retrenchment compensation, any chargesheet was not paid to him. No enquiry was conducted against him by IInd party. From his evidence, documents Exhibit W-1, W-2/1 to 2/12, W-3/1 to 3/17 are proved. Workman in his cross-examination says the attendance register produced by him is not bearing Mono/seal of LIC. Zerox copy is produced by him is signed by Shri Shiv Kumar Soni, Administrative Officer. It does not bear signature of other persons. The official seal is not affixed on each pages. He not submitted applications for copy. Copy was supplied to him by Shri Patel, Class IV employee working in LIC. The entries in Attendance Registers were filled by Shiv Kumar Soni. The attendance register of regular employees and Class IV employees are separately maintained. Six other employees working with him, their attendance was maintained. The signatures of those employees were not obtained. The vacancies in LIC were not advertised. He had not submitted any application. His oral interview was taken before engaging him in work. In his further cross, workman admits that entries are taken in Attendance Register for working days. The payment vouchers and budget control registers were also maintained. Workman had denied suggestion that he was not continuously working. On document Exhibit W-2/6, it is signed in name of Manish Pappu Halwai. Document Exhibit W-2/7 name of Sudhir is recorded. He had written names of Manish Pappu subsequently.

9. Management filed affidavit of evidence of witness Shri Vivek Kumar, Management's witness says that workman was engaged for 85 days from 16-4-96 to 9-7-96. Workman had not completed 240 days continuous service. Workman was not supplied copies of budget control register, attendance register. In his cross-examination management's witness says he was posted at Satna on 12-6-2013. He had not engaged or terminated workman. He was giving evidence as per available record. Workman was working for 85 days from 16-4-96 to 9-7-96. It is denied that despite of order for production of documents Exhibit M-1 was not produced. The witness in his further cross-examination says that registers of casual employees and regular employees are separately maintained. The registers of daily wage employees are not produced. Registers are not destroyed after one year.

10. Workman had submitted application for production of documents as per order dated 24-4-2010, workman was permitted to adduce secondary evidence. When IInd party has not produced documents on the ground that documents are destroyed, the zerox copy secured by workman produced as secondary evidence cannot be rejected. Evidence of workman is supported by documents. Exhibit W-1 (1 to 9) budget control register. The entires of the name of workman are found Exhibit W-2/1 to 9 payment

voucher are also corroborating evidence of workman. He was working with IInd party. He was paid wages by IInd party. IInd party has produced documents Exhibit M-1 order engaging workman for the period 16-4-04 to 15-7-04 85 days. The documents produced by workman payment voucher Exhibit W-2/3 is dated 25-7-05. Subsequent to the period of his engagement as per Exhibit M-1. Exhibit W-2/4 is dated 16-8-05. W-2/6 is dated 1-8-05. Exhibit W-2/7 shows labour payment to workman on 8-8-05. W-2/8 dated 29-8-05, Exhibit W/2/9 dated 10-9-05. Thus evidence of workman is corroborated by documentary evidence. Exhibit M-1 produced by management does not explain the working of workman beyond the period of his engagement.

11. Learned Counsel for workman Shri Ahiwasi on point of burden of proving more than 240 days continuous service relies on ratio held in Case of Director, Fisheries Terminal Department versus Bhikubhai Meghajibhia Chavda reported in 2010(2) MPLJ-30. Their Lordship of the Supreme Court dealing with Section 25-B of ID Act, held burden of proof shifts to the employer to prove that he did not complete 240 days of service in the requisite period to constitute continuous service.

He also relies on ratio held in Case of Sanjay Kumar versus Chief Executive Officer, Janpad Panchayat, Ratlam reported in 2010(3) MPLJ-457. Their Lordship dealing with question of burden of proof of completing 240 days continuous service held the evidence produced by petitioner workman was sufficient to prove that petitioner has worked for more than 240 days. In rebuttal, there is cogent evidence adduced by the respondent. Burden of proof shifts on the respondent employer to prove that petitioner did not complete 240 days of service in the requisite period to constitute continuous service.

Though management's witness says that he has stated in his affidavit as per record that workman not completed 240 days continuous service, which record is referred is not disclosed neither those documents are produced by IInd party. It is sufficient to hold that evidence of workman corroborated by documentary evidence deserves to be accepted. Workman has discharged his burden that he was continuously working more than 240 days, his services are terminated without notice, he was not paid retrenchment compensation, provisions of Section 25F was not complied while terminating his services therefore termination of service of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

12. Point No. 2 — In view of my finding in Point No. 1, termination of service of workman is illegal, question arises whether workman is entitled to reinstatement with backwages. As per evidence discussed above, workman was working with IInd party on daily wages at the rate prescribed by Collector office from March 96 to 30-9-05. Post was not advertised. Workman has not submitted application but he claims to have been orally interviewed.

13. Learned Counsel for Ist party Ahiwasi submits that workman be reinstated with backwages. In support of his arguments, he placed reliance on ratio held in Case of Harjinder Singh Versus Punjab State Warehousing Corporation reported in 2010(3) SCC 192. Their Lordship restored award passed by Labour Court for reinstatement with 50% back wages. From reading of para-2 of the judgement, it is clear that the appellant in above cited case was employed in Punjab State Warehousing Corporation as work charge motor mate w.e.f. 5-3-86. After 7 months Executive Engineer issued order appointing appellant in pay scale Rs. 350-525. Further orders were issued on 5-2-87 appointing appellant in Pay Scale 400-600. The appointment order dated 4-5-87, the appellant was continued in employment.

The facts of present case are not comparable as the Ist party workman was engaged for 85 days as per Exhibit M-1. Ist party workman was not appointed on regular pay scale.

In Para-30 of the judgment, their Lordship observed of late, there has been a visible shift in the courts approach in dealing with the cases involving the interpretation of social welfare legislations. The attractive mantras of globalization and liberalization are fast becoming the *raison d'être* of the judicial process and an impression has been created that the constitutional courts are no longer sympathetic towards the plight of industrial and unorganized workers. In large number of cases like the present one, relief has been denied to the employees falling in the category of workmen, who are illegally retrenched from service by creating by lanes and side lanes in the jurisprudence developed by this Court in three decades. The stock plea raised by the public employer in such cases is that the initial employment/engagement of the workman/employee was contrary to some or the other statute or that reinstatement of the workman will put unbearable burden on the financial health of the establishment. The courts have readily accepted such plea unmindful of the accountability of the wrong doer and indirectly punished the tiny beneficiary of the wrong ignoring the fact that he may have continued in the employment for year together and that micro wages earned by him may be the only source of his livelihood.

In para-36 of the judgment their Lordship observed Judges and specially of the Judges of the highest Court have a vital role to ensure that the promise is fulfilled. If the Judges fail to discharge their duty in making an effort to make the promise a reality, they fail to uphold and abide by the constitution which is their oath of office. In my opinion, this has to be put as high as that and should be equated with the conscience of this Court.

The ratio held in above cited case cannot be applied as workman was not appointed in regular Pay scale. He not even submitted application for appointment. The post was not advertised. He was engaged as per Exhibit M-1 for 85

days as casual employees. Considering period of work on daily wages of Ist party from 1996 to 30-9-05, reasonable compensation would be appropriate. In my considered view, compensation Rs. 2,50,000/- would be reasonable. Accordingly I record my finding in Point No. 2.

14. In the result, award is passed as under:—

- (1) The action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Ramkushal Dahia S/o Shri Ramadhar Dahia, Daily rated workman after working from March 96 to 30-9-2005 is not legal and proper.
- (2) IInd party is directed to pay compensation Rs. 2,50,000/- to the workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATEL, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का.आ. 659.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शुरेंस कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 33/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं. एल.-17012/12/2006-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 659.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 33/2006) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 20.03.2015.

[No. L-17012/12/2006-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR CGIT/LCR/33/2006

Shri Manish Kumar Halwai,
Opp Hukumchandra Dicks Wala,

Shyamlal ka Bada,
Bajraha Tola,
Satna (MP)

....Workman

Versus

Sr. Mandal Manager,
LIC of India,
Mandal Office, Krishna Complex,
Krishna Nagar,
Satna (MP)

.... management

AWARD

Passed on this 10th day of March, 2015

1. The Government of India, Ministry of Labour *vide* its Notification No. L-17012/12/2006-IR(M) dated 14-7-06 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Manish Kumar Halwai S/o Shri Arjun Prasad Halwai, Daily rated workman after working from 2004 to 30-9-2005 is legal? If not, to what relief the concerned workman is entitled?"

2. After receiving reference, notices were issued to the parties, Ist party workman submitted statement of claim at Pages 5/1 to 5/4. Case of workman is that he was working as peon in account branch of IInd party from 2004 till 30-09-05. He was continuously working. He was paid minimum wages prescribed by Collector Office. He worked with devotion. The services of workman were terminated by IInd party without notice. He was not paid retrenchment compensation. Termination of his service is in violation of Section 25-F of ID Act. Other junior employees were continued in service. Workman was not provided employment. The list of daily rated employees was not displayed on notice board. Thereby IInd party violated provisions of Section 25-G, H & Rules 77,78 of ID Act.

3. Ist party workman further submits that after completion of service more than six months he acquired status of regular employee. His services orally terminated without notice, without conducting enquiry is illegal. On such grounds, workman prays for his reinstatement with back wages.

4. IInd party submitted Written Statement at Pages 8/1 to 8/3 opposing claim of the workman. IInd party submits that workman was engaged as waterman for 85 days from 16-4-04 to 15-07-05. Workman was not working as peon. Any appointment orders were not issued to them. He was not terminated. After completion of 85 days period, his service had come to end. That workman had not completed 240 days continuous service. The provisions of Section

25-F, G, H & Rules 77, 78 are not applicable. Workman was engaged as casual employee for 85 days. Workman had not completed 240 days continuous service therefore he is not entitled to protection of ID Act. It is denied that other junior employees are continued. IInd party prays for rejection of claim with cost of Rs. 5000/-.

Workman submitted rejoinder at Page-9 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| “(i) whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Manish Kumar Halwai S/o Shri Arjun Prasad Halwai, Daily rated workman after working from 2004 to 30-9-2005 is legal?” | In Negative |
| “(ii) If not, what relief the workman is entitled to?” | As per final order. |

REASONS

7. Workman is challenging termination of service for violation of Section 25-F, G, H & Rules 77, 78. IInd party submits that workman was casually engaged for 85 days. He had not completed 240 days continuous service. Workman is not entitled to protection of ID Act.

8. Workman filed affidavit of his evidence covering his contentions in statement of claim. That he was working with IInd party from 16-4-04 till 30-9-95. He had completed more than 240 days continuous service. He was paid wages under voucher. Sometimes the wages were paid by vouchers in name of different persons. He was required to sign those vouchers. His services are orally terminated without notice, he was not paid retrenchment compensaion, any chargesheet was not paid to him. No enquiry was conducted against him by IInd party. From his evidence, documents Exhibit W-1, W-2/1 to 2/9 are proved. Workman in his cross-examination says the attendance register produced by him is not bearig Mono/seal of LIC. Zerox copy is produced by him is signed by Shri Shiv Kumar Soni, Administrative Officer. It does not bear signature of other persons. The official seal is not affixed on each pages. He not submitted application for copy. Copy was supplied to him by Shri Patel, Class IV employee working in LIC. The entries in Attendance Registers were filled by Shiv Kumar Soni. The attendance register of regular employees and Class IV employees are separately maintained. Six other

employees working with him, their attendance was maintained. The signatures of those employees were not obtained. The vacancies in LIC were not advertised. He had not submitted any application. His oral interview was taken before engaging him in work. In his further cross, workman admits that entries are taken in Attendance Register for working days. The payment vouchers and budget control registers were also maintained. Workman had denied suggestion that he was not continuously working. On document Exhibit W-2/6 it is signed in name of Manish Pappu Halwai. Document Exhibit W-2/7 name of Sudhir is recorded. He had written names of Manish Pappu subsequently.

9. Management filed affidavit of evidence of witness Shri Vivek Kumar. Management's witness says that workman was engaged for 85 days from 16-4-04 to 15-7-04. Workman had not completed 240 days continuous service. Workman was not supplied copies of budget control register, attendance register. In his cross-examination management's witness says he was posted at Satna on 12-6-2013. He had not engaged or terminated workman. He was giving evidence as per available record. Workman was working for 85 days from April 04 to July 04. It is denied that despite of order for production of documents Exhibit M-1 was not produced. The witness in his further cross-examination says that registers of casual employees and regular employees are separately maintained. The registers of daily wage employees are not produced. Registers are not destroyed after one year.

10. Workman had submitted application for production of documents as per order dated 24-4-2010, workman was permitted to adduce secondary evidence. When IInd party has not produced documents on the ground that documents are destroyed, the zerox copy secured by workman produced as secondary evidence cannot be rejected. Evidence of workman is supported by documents. Exhibit W-1 (1 to 9) budget control register. The entries of the name of workman are found exhibit W-2/1 to 9 payment voucher are also corroborating evidence of workman. He was working with IInd party. He was paid wages by IInd party. IInd party has produced documents Exhibit M-1 order engaging workman for the period 16-4-04 to 15-7-04, 85 days. The documents produced by workman payment voucher Exhibit W-2/3 is dated 25-7-05. Subsequent to the period of his engagement as per Exhibit M-1. Exhibit W-2/4 is dated 16-8-05. W-2/6 is dated 1-8-05. Exhibit W-2/7 shows labour payment to workman on 8-8-05. W-2/8 dated 29-8-05, Exhibit W-2/9 dated 10-9-05. Thus evidence of workman is corroborated by documentary evidence. Exhibit M-1 produced by management does not explain the working of workman beyond the period of his engagement.

11. Learned Counsel for workman Shri Ahiwasi on point of burden of proving more than 240 days continuous service

relies on ratio held in Case of Director, Fisheries Terminal Department versus Bhikubhai Meghajibhai Chavda reported in 2010(2) MPLJ-30. Their Lordship of the Supreme Court dealing with Section 25-B of ID Act held burden of proof shifts to the employers to prove that he did not completed 240 days of service in the requisite period to constitute continuous service.

He also relied on ratio held in Case of Sanjay Kumar versus Chief Executive Officer, Janpad Panchayat, Ratlam reported in 2010(3) MPLJ-457. Their Lordship dealing with question of burden of proof of completing 240 days continuous service held the evidence produced by petitioner workman was sufficient to prove that petitioner has worked for more than 240 days. In rebuttal, there is cogent evidence adduced by the respondent. Burden of proof shifts on the respondent employer to prove that petitioner did not completed 240 days of service in the requisite period to constitute continuous service.

Though management's witness says that he has stated in his affidavit as per record that workman not completed 240 days continuous service, which record is referred is not disclosed neither those documents are produced by IInd party. It is sufficient to hold that evidence of workman corroborated by documentary evidence deserves to be accepted. Workman has discharged his burden that he was continuously working more than 240 days, his services are terminated without notice, he was not paid retrenchment compensation, provisions of Section 25-F was not complied while terminating his services therefore termination of service of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

12. Point No. 2—In view of my finding in Point No. 1, termination of service of workman is illegal, question arises whether workman is entitled to reinstatement with backwages. As per evidence discussed above, workman was working with IInd party on daily wages at the rate prescribed by Collector office from 16-4-04 to 30-9-05 approximately 1 year 5 months. Post was not advertised. Workman has not submitted application but he claims to have been orally interviewed.

13. Learned counsel for Ist party Ahiwasi submits that workman be reinstated with backwages. In support of his arguments, he placed reliance on ratio held in Case of Harjinder Singh versus Punjab State Warehousing Corporation reported in 2010(3) SCC 192. Their Lordship restored award passed by Labour Court for reinstatement with 50% back wages. From reading of para-2 of the judgment, it is clear that the appellant in above cited case was employed in Punjab State Warehousing Corporation as work charge motor mate *w.e.f.* 5-3-86. After 7 months Executive Engineer issues order appointing appellant in pay scale Rs. 350-525. Further order were issued on 5-2-87 appointing appellant in Pay Scale 400-600. The appointment

order dated 4-5-87 the appellant was continued in employment.

The facts of present case are not comparable as the Ist party workman was engaged for 85 days as per Exhibit M-1. Ist party workman was not appointed on regular pay scale.

In Para-30 of the judgment, their Lordship observed of late, there has been a visible shift in the courts approach in dealing with the cases involving the interpretation of social welfare legislations. The attractive mantras of globalization and liberalization are fast becoming the *raison d'etre* of the judicial process and an impression has been created that the constitutional courts are no longer sympathetic towards the plight of industrial and unorganized workers. In large number of cases like the present one, relief has been denied to the employees falling in the category of workmen, who are illegally retrenched from service by creating by lanes and side lanes in the jurisprudence developed by this Court in three decades. The stock plea raised by the public employer in such cases is that the initial employment/engagement of the workman/employee was contrary to some or the other statute or that reinstatement of the workman will put unbearable burden on the financial health of the establishment. The courts have readily accepted such plea unmindful of the accountability of the wrong doer and indirectly punished the tiny beneficiary of the wrong ignoring the fact that he may have continued in the employment for years together and that micro wages earned by him may be the only source of his livelihood.

In para-36 of the judgment their Lordship observed Judges and specially of the Judges of the highest Court have a vital role to ensure that the promise is fulfilled. If the Judges fail to discharge their duty in making an effort to make the promise a reality, they fail to uphold and abide by the constitution which is their oath of office. In my opinion, this has to be put as high as that and should be equated with the conscience of this Court.

The ratio held in above cited case cannot be applied as workman was not appointed in regular Pay Scale. He not even submitted application for appointment. The post was not advertised. He was engaged as per Exhibit M-1 for 85 days as casual employee. Considerig short span of work on daily wages of Ist party, reasonable compensation would be appropriate. In my considered view, compensation Rs. 60,000/- would be reasonable. Accordingly, I record my finding in Point No. 2.

14. In the result, award is passed as under:—

- (1) The action of the management of Sr. Divisional Manager, LIC of India, Divisional office, Satna MP in not regularizing the services and terminating Shri Manish Kumar Halwai

S/o Shri Arjun Prasad Halwai, Daily rated workman after working from 2004 to 30-9-2005 is not legal and proper.

- (2) IInd party is directed to pay compensation Rs. 60,000/- to the workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का०आ० 660.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शुरन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायलय, जबलपुर के पंचाट (संदर्भ संख्या 31/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/3/2015 को प्राप्त हुआ था।

[सं. एल-17012/10/2006-आईआर(एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 660.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 31/2006) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 20/3/2015.

[No. L-17012/10/2006-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

CASE No. CGIT/LC/R/31/2006

Shri Ram Naresh Singrah,
S/o Shri Dukhilal Singrah,
Vill & PO Sakria,
Satna (MP)

....Workman

Versus

Sr. Mandal Manager,
LIC of India,
Mandal Office, Krishna Complex,
Krishna Nagar,
Satna (MP)

....Management

AWARD

Passed on this 10th day of March, 2015

1. The Government of India, Ministry of Labour vide its Notification No. L-17012/10/2006-IR(M) dated 20-7-06 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Ram Naresh Singrah S/o Shri Dukhilal Singrah, Daily rated workman after working from April 2004 to 30-9-2005 is legal? If not, to what relief the concerned workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 5/1 to 5/4. Case of workman is that he was working as peon in account branch of IInd party from April 02 till 30-9-05. He was continuously working. He was paid minimum wages prescribed by Collector Office. He worked with devotion. The services of workman were terminated by IInd party without notice. He was not paid retrenchment compensation. Termination of his service is in violation of Section 25-F of ID Act. Other junior employees were continued in service. Workman was not provided employment. The list of daily rated employees was not displayed on notice board. Thereby IInd party violated provisions of Section 25-G, H & Rules 77, 78 of ID Act.

3. Ist party workman further submits that after completion of service more than six months he acquired status of regular employee. His services orally terminated without notice, without conducting enquiry is illegal. On such grounds, workman prays for his reinstatement with back wages.

4. IInd party submitted Written Statement at Page 9/1 to 9/3 opposing claim of the workman. IInd party submits that workman was engaged as waterman for 85 days from April 2002 to 30-9-05. Workman was not working as peon. Any appointment orders were not issued to them. He was not terminated. After completion of 85 days period, his service had come to end. That workman had not completed 240 days continuous service. The provisions of Section 25-F, G, H & Rules, 77, 78 are not applicable. Workman was engaged as casual employee for 85 days. Workman had not completed 240 days continuous service therefore he is not entitled to protection of ID Act. It is denied that other junior employees are continued. IInd party prays for rejection of claim with cost of Rs. 5000/-.

5. Workman submitted rejoinder at Page-10 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the

reasons as below:—

- | | |
|--|----------------------|
| (i) whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Ram Naresh Singrah S/o Shri Dukhilal Singrah, Daily rated workman after - working from April 2004 to 30-9-2005 is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final orders. |

REASONS

7. Workman is challenging termination of service for violation of Section 25-F, G, H & Rule 77, 78. IInd party submits that workman was casually engaged for 85 days. He had not completed 240 days continuous service. Workman is not entitled to protection of ID Act.

8. Workman filed affidavit of his evidence covering his contentions in statement of claim. That he was working with IInd party from April 2002 till 30-9-95. He had completed more than 240 days continuous service. His services are orally terminated from 30-9-05 without notice, he was not paid retrenchment compensation, any chargesheet was not paid to him. No enquiry was conducted against him by IInd party. From his evidence, documents Exhibit W-1/1 to W-1/12 are proved. Workman in his cross-examination says the attendance register produced by him is not signed by any officer, it doesnot bear office seal attendance of employees in office of LIC is maintained every day. He was not signing attendance register every day. LIC officers were signing every day on attendance register. Shri Lakhan Singh had supplied copy of attendance register to him. Zerox copy of attendance register doesnot bear signature of Shri Lakhan Patel. He was supplied copy after 1-2 days of his termination. Shri Lakhan patel obtained zerox copy and handed over to him the post was not advertised. He was interviewed along with 4-5 other persons. He claims ignorance of names of other persons. He was not given appointment letter. He received payments of wages in name of Shri Rakesh Singh, Ram Naresh, Rajendra Singh. Evidence of workman is supported by documents Exhibit W-1/1 to W-1/12. Workman was paid wages under voucher.

9. Though the reference order mentions working of Ist party workman from April 2002 to 30-9-05, in evidence of workman, he was working from April 2002 is not shattered. Documents produced by workman shows his working days since July 2002.

10. Management filed affidavit of evidence of witness Shri Vivek Kumar, Management's witness says that workman

was engaged for 85 days from April 2002 to 15-7-04. Workman had not completed 240 days continuous service. Workman was not supplied copies of budget control register, attendance register. In his cross-examination management's witness says he was posted at Satna on 12-6-2013. He had not engaged or terminated workman. He was giving evidence as per available record. Workman was working for 85 days from April 04 to July 04. It is denied that despite of order for production of documents Exhibit M-1 was not produced. The witness in his further cross-examination says that registers of casual employees and regular employees are separately maintained. The registers of daily wage employees are not produced. Registers are not destroyed after one year.

11. Workman had submitted application for production of documents as per order dated 24-4-2010, workman was permitted to adduce secondary evidence. When IInd party has not produced documents on the ground that documents are destroyed, the zerox copy secured by workman produced as secondary evidence cannot be rejected. Evidence of workman is supported by documents. Exhibit W-1 (1 to 9) budget control register. The entire of the name of workman are found Exhibit W-2/1 to 2/9 payment voucher are also corroborating evidence of workman. He was working with IInd party. He was paid wages by IInd party. IInd party has produced documents Exhibit M-1 order engaging workman for the period 16-4-04 to 15-7-04-85 days. The documents produced by workman payment voucher Exhibit W-2/3 is dated 25-7-05. Subsequent to the period of his engagement as per Exhibit M-1. Exhibit W-2/4 is dated 16-8-05. W-2/6 is dated 1-8-05. Exhibit W-2/7 shows labour payment to workman on 8-8-05. W-2/8 dated 29-8-05, Exhibit W-2/9 dated 10-9-05. Thus evidence of workman is corroborated by documentary evidence. Exhibit M-1 produced by management doesnot explain the working of workman beyond the period of his engagement.

12. Learned counsel for workman Shri Ahiwasi on point of burden of proving more than 240 days continuous service relies on ratio held in

Case of Director, Fisheries Terminal Department versus Bhikubhai Meghajibhia Chavda reported in 2010(2) MPLJ-30. Their Lordship of the Supreme Court dealing with Section 25-B of ID Act held burden of proof shifts to the employer to prove that he did not complete 240 days of service in the requisite period to constitute continuous service.

He also relies on ratio held in Case of Sanjay Kumar versus Chief Executive Officer, Janpad Panchayat, Ratlam reported in 2010(3) MPLJ-457. Their Lordship dealing with question of burden of proof of completing 240 days continuous service held the evidence produced by petitioner workman was sufficient to prove that petitioner has worked for more than 240 days. In rebuttal, there is cogent evidence adduced by the respondent. Burden of

proof shifts on the respondent employer to prove that petitioner did not complete 240 days of service in the requisite period to constitute continuous service.

Though management's witness says that he has stated in his affidavit as per record that workman not completed 240 days continuous service, which record is referred is not disclosed neither those documents are produced by IInd party. It is sufficient to hold that evidence of workman corroborated by documentary evidence deserves to be accepted. Workman has discharged his burden that he was continuously working more than 240 days, his services are terminated without notice, he was not paid retrenchment compensation, provisions of Section 25-F was not complied while terminating his services therefore termination of service of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

13. Point No. 2 — In view of my finding in Point No. 1, termination of service of workman is illegal, question arises whether workman is entitled to reinstatement with backwages. As per evidence discussed above, workman was working with IInd party on daily wages at the rate prescribed by Collector office from 16-4-02 to 30-9-05 approximately 4 years. Post was not advertised. Workman has not submitted application but he claims to have been orally interviewed.

14. Learned counsel for Ist party Ahiwasi submits that workman be reinstated with backwages. In support of his arguments, he placed reliance on ratio held in Case of Harjinder Singh versus Punjab State Warehousing Corporation reported in 2010(3) SCC 192. Their Lordship restored award passed by Labour court for reinstatement with 50% back wages. From reading of para-2 of the judgement, it is clear that the appellant in above cited case was employed in Punjab State Warehousing Corporation as work charge motor mate w.e.f. 5-3-86. After 7 months Executive Engineer issued order appointing appellant in pay scale Rs. 350-525. Further orders were issued on 5-2-87 appointing appellant in Pay Scale 400-600. The appointment order dated 4-5-87— the appellant was continued in employment.

The facts of present case are not comparable as the Ist party workman was engaged for 85 days as per Exhibit M-1. Ist party workman was not appointed on regular pay scale.

In Para-30 of the judgement, their Lordship observed of late, there has been a visible shift in the courts approach in dealing with the cases involving the interpretation of social welfare legislations. The attractive mantras of globalization and liberalization are fast becoming the *raison d'être* of the judicial process and an impression has been created that the constitutional courts are no longer sympathetic towards the plight of industrial and unorganized workers. In large number of cases like the present one, relief has been denied

to the employees falling in the category of workmen, who are illegally retrenched from service by creating by lanes and side lanes in the jurisprudence developed by this Court in three decades. The stock plea raised by the public employer in such cases is that the initial employment/engagement of the workman/employee was contrary to some or the other stature or that reinstatement of the workman will put unbearable burden on the financial health of the establishment. The courts have readily accepted such plea unmindful of the accountability of the wrong doer and indirectly punished the tiny beneficiary of the wrong ignoring the fact that he may have continued in the employment for year together and that micro wages earned by him may be the only source of his livelihood.

In para-36 of the judgement their Lordship observed Judges and specially of the Judges of the highest Court have a vital role to ensure that the promise is fulfilled. If the Judges fail to discharge their duty in making an effort to make the promise a reality, they fail to uphold and abide by the constitution which is their oath of office. In my opinion, this has to be put as high as that and should be equated with the conscience of this Court.

The ratio held in above cited case cannot be applied as workman was not appointed in regular Pay scale. He not even submitted application for appointment. The post was not advertised. Evidence shows that workman was continuously working from April 2002 till 30-9-05 for about 3 1/2 years. Considering short span of work on daily wages of Ist party, reasonable compensation would be appropriate. In my considered view, compensation Rs. One Lakh would be reasonable. Accordingly I record my finding in Point No. 2

15. In the result, award is passed as under:—

- (1) The action of the management of Sr. Divisional Manager, LIC of India, Divisional office, Satna MP in not regularizing the services and terminating Shri Ram Naresh Singrah S/o Shri Dukhilal Singrah, Daily rated workman after working from April 2002 to 30-9-2005 is not legal and proper.
- (2) IInd party is directed to pay compensation Rs. One Lakh to the workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का०आ० 661.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शोरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 30/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं० एल-17012/9/2006-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 661.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 30/2006) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Life Insurance Corporation of India and their workman, which was received by the Central Government on 20/3/2015.

[No. L-17012/9/2006-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/R/30/2006

Shri Ramesh Kumar Soni,
Near Shafi Gali,
Gaushala Nagar,
Satna (MP)

....Workman

Versus

Sr. Mandal Manager,
LIC of India,
Mandal office, Krishna Complex,
Krishna Nagar,
Satna (MP)

....Management

AWARD

Passed on this 10th day of March, 2015

1. The Government of India, Ministry of Labour vide its Notification No. L-17012/9/2006-IR(M) dated 14-7-06 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Sri Ramesh Kumar Soni S/o Shri Rammnath Soni, Daily rated workman after working from 1998 to 30-9-2005 is legal? If not, to what relief the concerned workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at

page 5/1 to 5/4. Case of workman is that he was working as peon in account branch of IInd party from 1998 till 30-9-05. He was continuously working. He was paid minimum wages prescribed by Collection Office. He worked with devotion. The services of workman were terminated by IInd party without notice. He was not paid retrenchment compensation. Termination of his service is in violation of Section 25-F of ID Act. Other junior employees were continued in service. Workman was not provided employment. The list of daily rated employees was not displayed on notice board. Thereby IInd party violated provisions of Section 25-G, H & Rule 77, 78 of ID Act.

3. Ist party workman further submits that after completion of service more than six months he acquired status of regular employee. His services orally terminated without notice, without conducting enquiry is illegal. On such grounds, workman prays for his reinstatement with back wages.

4. IInd party submitted Written Statement at Page 8/1 to 8/3 opposing claim of the workman. IInd party submits that workman was engaged as waterman for 85 days from 17-4-00 to 10-7-00. Workman was not working as peon. Any appointment orders were not issued to them. He was not terminated. After completion of 85 days period, his service had come to end. That workman had not completed 240 days continuous service. The provisions of Section 25-F, G, H & Rule-77, 78 are not applicable. Workman was engaged as casual employee for 85 days. Workman had not completed 240 days continuous service therefore he is not entitled to protection of ID Act. It is denied that other junior employees are continued. IInd party prays for rejection of claim with cost of Rs. 5000/-.

5. Workman submitted rejoinder at Page-9 reiterating his contentions in statement of claim.

6. Reply to rejoinder is filed by IInd party contending that as per budget control register, workman worked for 67 days in 2002, 29 days in 2003, 100 days in 2004 & 37 days in 2005.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|-------------|
| (i) whether the action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Ramesh Kumar Soni S/o Shri Rammnath Soni, Daily rated workman after - working from 1998 to 30-9-2005 is legal? | In Negative |
|--|-------------|

- (ii) If not, what relief the workman is entitled to?" As per final orders.

REASONS

8. Workman is challenging termination of his service for violation of Section 25-F, G, H & Rule 77, 78. IInd party submits that workman was casually engaged for 85 days. He had not completed 240 days continuous service. Workman is not entitled to protection of ID Act.

9. Workman filed affidavit of his evidence covering his contentions in statement of claim. That he was working with IInd party from 1998 till 30-9-95. He had completed more than 240 days continuous service. He was paid wages under voucher. Sometimes the wages were paid by vouchers in name of different persons. He was required to sign those vouchers. His services are orally terminated without notice, he was not paid retrenchment compensation, any chargesheet was not paid to him. No enquiry was conducted against him by IInd party. From his evidence, documents Exhibit W-1, W-2/1 to 2/139, are proved. Workman in his cross-examination says the attendance register produced by him is not bearing Mono/seal of LIC. Zerox copy is produced by him is signed by Shri Shiv Kumar Soni, Administrative Officer. It does not bear signature of other persons. The official seal is not affixed on each pages. He not submitted applications for copy. Copy was supplied to him by Shri Patel, Class IV employee working in LIC. He had not deposited any amount for securing copy of Attendance Register. Objection was kept open about secondary evidence. The documents should be accepted as secondary evidence or not. When IInd party has not produced documents after application, workman was granted permission for secondary evidence as per order dated 21-4-2010. The document is admitted as secondary evidence. Evidence of workman is supported by payment vouchers Exhibit W-2/1 to 2/139.

10. Management filed affidavit of evidence of witness Shri Vivek Kumar, Management's witness says that workman was engaged for 85 days. Workman had not completed 240 days continuous service. Working days of workman were 67 days in 2002, 29 days in 2003, 100 days in 2004 & 37 days in 2005. Workman was not supplied copies of budget control register, attendance register. In his cross-examination management's witness says he was posted at Satna on 12-6-2013. He had not engaged or terminated workman. He was giving evidence as per available record. Workman was engaged on daily wages during 2002 to 2005. In 2000, workman worked for 85 days. Witness was unable to tell working days of workman during rest of the years. It is denied that despite of order for production of documents Exhibit M-1 was not produced. The witness in his further cross-examination says that registers of casual employees and regular employees are separately maintained. The registers of daily wage employees are not produced. Registers are not destroyed after one year.

11. Workman had submitted application for production of documents as per order dated 24-4-2010, workman was permitted to adduce secondary evidence. When IInd party has not produced documents on the ground that documents are destroyed, the zerox copy secured by workman produced as secondary evidence cannot be rejected. Evidence of workman is supported by documents. Exhibit W-1 (1 to 9) budget control register. The entires of the name of workman are found Exhibit W-2/1 to 9 payment voucher are also corroborating evidence of workman. He was working with IInd party. He was paid wages by IInd party. IInd party has produced documents Exhibit M-1 order engaging workman for the period 16-4-04 to 15-7-04-85 days. The documents produced by workman payment voucher Exhibit W-2/3 is dated 25-7-05. Subsequent to the period of his engagement as per Exhibit M-1. Exhibit W-2/4 is dated 16-8-05. W-2/6 is dated 1-8-05. Exhibit W-2/7 shows labour payment to workman on 8-8-05. W-2/8 dated 29-8-05, Exhibit W/2/9 dated 10-9-05. Thus evidence of workman is corroborated by documentary evidence. Exhibit M-1 produced by management does not explain the working of workman beyond the period of his engagement.

12. Learned counsel for workman Shri Ahiwasi on point of burden of proving more than 240 days continuous service relies on ratio held in Case of Director, Fisheries Terminal Department versus Bhikubhi Meghajibhai Chavda reported in 2012(2) MPLJ-30. Their Lordship of the Suprme Court dealing with Section 25-B of IDAct held burden of proof shifts to the employer to prove that he did not complete 240 days of service in the requisite period to constitute continuous service.

He also relies on ratio held in Case of Sanjay Kumar versus Chief Executive Office, Janpad Panchayat, Ratlam reported in 2010(3) MPLJ-457. Their Lordship dealing with question of burden of proof of completing 240 days continuous service held the evidence produced by petitioner workman was sufficient to prove that petitioner has worked for more than 240 days. In rebuttal, there is congnet evidence adduced by the respondent. Burden of proof shifts on the respondent employer to prove that petitioner did not complete 240 days of service in the requisite period to constitute continuous service.

Though management's witness syas that he has stated in his affidavit as per record that workman not completed 240 days continuous service, which record is referred is not disclosed neither those documents are produced by IInd party. It is sufficient to hold that evidence of workman corroborated by documentary evidence deserves to be accepted. Workman has discharged his burden that he was continuously working more than 240 days, his services are terminated without notice, he was not paid retrenchment compensation, provisions of Section 25_F was not complied while terminating his services therefore termination of service of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

13. Point No. 2 — In view of my finding in Point No. 1, termination of service of workman is illegal, question arises whether workman is entitled to reinstatement with backwages. As per evidence discussed above, workman was working with IInd party on daily wages at the rate prescribed by Collector office from 1998 to 30-9-05. Post was not advertised. Workman has not submitted application but he claims to have been orally interviewed.

13. Learned counsel for Ist party Ahiwasi submits that workman be reinstated with backwages. In support of his arguments, he placed reliance on ratio held in Case of Harjinder Singh Versus Punjab State Warehousing Corporation reported in 2010(3) SCC 192. Their Lordship restored award passed by Labour Court for reinstatement with 50% back wages. From reading of para-2 of the judgement, it is clear that the appellant in above cited case was employed in Punjab State Warehousing Corporation as work charge motor mate w.e.f. 5-3-86. After 7 months Executive Engineer issued order appointing appellant in pay scale Rs. 350-525. Further orders were issued on 5-2-87 appointing appellant in Pay Scale 400-600. The appointment order dated 4-5-87 — the appellant was continued in employment.

The facts of present case are not comparable as the Ist party workman was engaged for 85 days as per Exhibit M-1. Ist party workman was not appointed on regular pay scale.

In Para-30 of the judgement, their Lordship observed of late, there has been a visible shift in the courts approach in dealing with the cases involving the interpretation of social welfare legislations. The attractive mantras of globalization and liberalization are fast becoming the *raison d'être* of the judicial process and an impression has been created that the constitutional courts are no longer sympathetic towards the plight of industrial and unorganized workers. In large number of cases like the present one, relief has been denied to the employees falling in the category of workmen, who are illegally retrenched from service by creating by lanes and side lanes in the jurisprudence developed by this Court in three decades. The stock plea raised by the public employer in such cases is that the initial employment/engagement of the workman/employee was contrary to some or the other statute or that reinstatement of the workman will put unbearable burden on the financial health of the establishment. The courts have readily accepted such plea unmindful of the accountability of the wrong doer and indirectly punished the tiny beneficiary of the wrong ignoring the fact that he may have continued in the employment for year together and that micro wages earned by him may be the only source of his livelihood.

In para-36 of the judgement their Lordship observed Judges and specially of the Judges of the highest Court have a vital role to ensure that the promise is fulfilled. If the Judges fail to discharge their duty in making an effort to

make the promise a reality, they fail to uphold and abide by the constitution which is their oath of office. In my opinion, this has to be put as high as that and should be equated with the conscience of this Court.

The ratio held in above cited case cannot be applied as workman was not appointed in regular Pay scale. He not even submitted application for appointment. The post was not advertised. He was engaged as per Exhibit M-1 for 85 days as casual employees. Considering period of work on daily wages of Ist party from 1998 to 30-9-05, reasonable compensation would be appropriate. In my considered view, compensation Rs. 2 Lakh would be reasonable. Accordingly I record my finding in Point No. 2.

15. In the result, award is passed as under:—

- (1) The action of the management of Sr. Divisional Manager, LIC of India, Divisional Office, Satna MP in not regularizing the services and terminating Shri Ramesh Kumar Soni S/o Shri Ramnath Soni, Daily rated workman after working from 1998 to 30-9-2005 is not legal and proper.
- (2) IInd party is directed to pay compensation Rs. 2 Lakh to the workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का.आ. 662.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मोइल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 189/2000) को प्रकाशित करती हैं जो केन्द्रीय सरकार को 20/3/2015 को प्राप्त हुआ था।

[सं. एल-29012/66/2000-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 662.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 189/2000) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MOIL and their workman, which was received by the Central Government on 20.3.2015.

[No. L-29012/66/2000-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/189/2000

Presiding Officer: SHRI R.B. PATLE

Shri Kishan Bopche,
S/o Tikaram Bopche,
Ward No. 10, PO Bharveli,
Distt. Bangalore (Karnataka).

...Workman

Versus

The Chairman cum Managing Director,
MOIL, 3, Mount Road Extension,
Nagpur (MS)

...Management

AWARD

Passed on this 2nd day of March, 2015

1. As per letter dated 24.10.2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-29012/66/2000/IR(M). The dispute under reference relates to:

"Whether the action of the Dy. General Manager (Pr.), MOIL, 3, Mount Road Extension, Nagpur (MS) in dismissing the services of Shri Kishan Bopche S/o Tikaram Bopche, Checker of Bharveli Mine of MOIL w.e.f. 26.5.86 is justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/9. Case of Ist party is that he was working as checker in Bharveli Mine. He was initially engaged as labour in 1975. He was continuously working till date of his dismissal 26.5.86. In 1982, the labours working inside Bharveli Mine had formed Union in the name of Krantikari Mazdoor Panchayat. Workman was elected as general secretary. Mr. Mankar Mujare was elected as President. Recognized INTUC Union was opposing the formation of said Union in collision with the management. On 11.2.82, it was decided to hold general meeting of labours on 24.6.82. Workman was served with chargesheet of giving speech instigating labours in the mine. It was decided to protest issuing said chargesheet, arranging meeting at Guest House on 27.6.82. The labours were angry with the chargesheet issued to workman labours were scating and agitating issuance of chargesheet to the workman. Management in collusion with INTUC labours called large police force. The police had exploded tear gas also resulted to firing causing death of 3 labours. It is submitted that the labours were agitating peacefully demanding withdrawal of chargesheet issued to workman. The activists of INYUC Union had pelted stones.

3. It is further contented that police filed chargesheet bearing Case No. 7,8, 9/84 and various offence under labours and workman. Workman was falsely implicated by police in collusion with management workman was acquitted by criminal court. Management had also issued chargesheet under different clauses of standing orders. Chargesheet was issued by Dy. General Manager. Workman was dismissed. He was also suspended for more than 3 years. Workman has contented that statements suitable to the management were manipulated by the management enquiry was not properly conducted. He was not supplied copies of documents. Chargesheet were also issued to other labours. Those labours were dismissed. His dismissal of the labours were challenged in Reference No. 33/84, 60/87. Enquiry conducted in those matters were held illegally by this Tribunal. Same principles be applied to present case. That charges alleged against workman are false. Enquiry was not conducted impartially. Enquiry officer was witness to the incident therefore enquiry conducted against his is illegal. That workman was not allowed to avail assistance. As enquiry conducted is illegal, the punishment of dismissal is illegal. On such ground, Ist party workman prays for his reinstatement with back wages.

4. IInd party filed Written Statement at Page 7/1 to 7/20 opposing claim of the workman. Preliminary objection is raised that punishment of dismissal was imposed on 26.5.86 vide order dated 1.9.87. Central Govt. had refused to make reference observing that order of dismissal was issued after conducting legal enquiry. Therefore the order of reference is not legal. IInd party quoted ratio held in various cases that on point of delay, the reference is not tenable.

5. IInd party further submits that there were peaceful relation between management and workmen. The disputes were settled through negotiations and discussions. In 1975, there was serious riots in Balaghat. One police station was set on fire, two Inspectors and one constable was burned to death. The Collector, Blaghat was paraded with garland of shoes and chappals, Kankar Munjare who was founder of Krantikari Parishad was responsible for organizing the agitation to attain international attention. He started interfering with the affairs of industrial mine. Shri Kankar Munjare was not a trade Union activist. He wanted to infiltrate in Trade Union as an experiment. As a part of his plan to establish his for hold among workers, meeting was organized on 18.2.82 in front of office of Mine Manager contrary to the rules. Mine Manager knew about proposed meeting. Ist party workman was illegal. He refused permission for meeting any right. Despite of it, workman taken out procession of workers from mine to residence of Mines Manager. Chargesheet was issued to him as per standing orders. Shri Kankar Munjare do not appreciate action of the management, he instigated 300—400 workers to organize violent demonstration. On 27th June, 92, workers assembled in front of office of Mine Manager and started violent agitation asking withdrawal of chargesheet issued

to workman that Manager and other officers were gheraoed. Labours resulted to stone pelting, giving abuses. Despite of police lathicharge and tear gas, workers did not stop their violence. Police fired resulting death of 3 persons. It is retreated that workers were asking Manager to give apology to workman. Manager tried to assure that the charge sheet would be withdrawn. Violence was continued at instigation of workman it is further submitted that charge sheet was issued to workman, enquiry was conducted as per rules. Charges against workman was proved from evidence in enquiry proceedings. Enquiry Officer submitted his report. It is denied that enquiry was not properly conducted. It is denied that copies of documents were not supplied to workman. It is denied that Enquiry Officer Shri Dwivedi was witness of the incident and as such not competent for appointment as Enquiry Officer. IInd party has referred to ratio held in various cases reiterating that charges proved against workman are of grievous nature. Order of dismissal is proper and legal. The principles of natural justice were followed by Enquiry Officer. IInd party prayed to answer reference in its favour.

6. As per order dated 12.12.12, may predecessor held enquiry conducted against workman is legal. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--|
| (i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings? | Party in Affirmative |
| (ii) Whether the punishment of dismissal imposed against workman is proper and legal? | In Affirmative |
| (iii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

7. Enquiry conducted against workman is found proper and legal. Question remains whether charges alleged against workman are proved from evidence in Enquiry Proceedings. As per Exhibit M-2, charge sheet was issued to workman pertaining to allegation he instigated workers on 27.6.82 for resorting to gherao, abusing Mine Manager, taking out procession, resulting to violence not taking back the agitations and unauthorized absence etc. covered under clause 2a(b)(7)(x), (XII), XV of standing orders. Workman denied charges against him as per reply Exhibit M-3 workman has contented that he was in jail of Balaghat. He was unable to attend Enquiry Proceedings. He was arrested by police on suspiciou. That criminal case was registered against him on the same facts enquiry could not be conducted. Management did not find his explanation

satisfactorily. Enquiry Officer was Shri K.S. Tripathi. Enquiry was conducted. Workman participated in Enquiry Proceedings and himself cross-examined the management's witness. Copy of Enquiry Proceedings is produced at Exhibit M-5, M-6. Management's witness Rewa Ram S/o Dharmaji, Junglu, Babulal, C.B. Patel fully supported the allegations against workman. That for demand of withdrawal of charge sheet against workman. The procession was taken by the labours to the residence of Mines Manager. The labours were abusing. They started pelting stones even tried to burn bungalow of Mines Manager. The violent acts of the labours were not stopped even after intervention by police. The witness of management during their cross-examination have given the locations stones were pelted, abuses given. The suggestion that Union activist of INTUC had resorted to pelting stones are denied. To be precise, Rewa Ram in cross-examination says that he was working from 1971. He had come to the place of scene obtaining permission of foreman that he had studied up to matriculation. He come to the headquarter office for taking tea. After looking to the incident, he stopped at the place. He heard agitators are demanding withdrawal of charge sheet issued to workman said witness says that he was member of INTUC Union. More than 1000 labours had participated in the agitations. He attended place of scene around 9 AM. In this further cross-examination, he says he had seen agitations near office mine. He identified workman as he was acquainted with him. Police had come from Balaghat. He identified Magistrate as other people were saying he was the Magistrate. That he had seen higher officers coming to the place of scene. The pleading of both parties are clear that when violence was not stopped, the police resorted to firing and 3 persons died in police firing. The officers were gheraoed from all sides by labours. The police resorted to firing on labours as Ist party workman and other persons of his group were intending to beat the higher officers to take revenge. The evidence of Shri Rewa Ram on the point of violent acts omitted is not shattered in his cross-examination. However he was unable to tell exact time of lathicharge. He was unable to tell on whom police had fired. After police resorted to firing, he was hiding at the place. The bullets were fired by police by side of time office. When stones were pelted, noise was heard at the window. The noise of firing was also heard by him. The witness had admitted his statement read over to him in his further cross-examination, witness says he was standing at the floor near office of Mine Manager. Other witnesses of management Janglu, Babulal confirmed incident of pelting strones and firing by police. Their evidence was not shattered in their cross-examination. Janglu Babulal was Security Guard. In his cross-examination, he says that he was not having any arms but he was having only cane in his hand. When about 125 labours came agitating near mines office, he was standing in the verandah of Mines Office. The labours were giving slogans from 8 AM to around 2.30 PM. the agitators were giving slogans for

withdrawal of charge sheet issued to workman. Police had come around 8 A.M. The witness was unable to tell their names. Management's witness No. 3 Shri C.V. Patel Head time keeper corroborated evidence of earlier witnesses. His evidence is also devoted on point of Ist party workman marking absent from 9.6.82 to 8.11.82.

8. The management's witness Janglu Babulal in his further cross-examination says that he had not seen workman letting fire. That presently said witness had no enmity with workman the agitating workman were giving slogans outside office for withdrawal of charge sheet issued to workman. The evidence in Enquiry Proceedings clearly shows that charge sheet issued to workman, the agitations were started, workman was among the agitators. The labours in procession resorted to violence. The agitations and violation were not stopped even after intervention by police and Magistrate. The act of resorting to violence for any kind of demand cannot be justified so far as charge No. 3 regarding unauthorized absence after justified, workman was arrested by police and released after about 3 months. During period of his detention, workman could not attend duty therefore absence of duty of workman cannot be said willful. The findings of Enquiry Officer *w.r.t.* charge No. 3 cannot be said proper and legal. Rest of the charges are proved from evidence in Enquiry Proceedings.

9. Management's witness Babulal in his cross-examination by workman says that he not stated that persons were having wooden logs or stones. Agitators were giving forceful slogans, the agitating labours had gheraved officers from all sides. That he was on duty. It was not expected of him to stand idle. His evidence discussed above squarely proves charges of violent agitation resulting to stone pelting for demand of withdrawal of charge sheet issued to workman the evidence of defence witnesses also confirm the violent agitations by the labours. The enquiry was completed in 1986 and workman was dismissed as per argument advanced, the criminal case was subsequently prosecuted and workman was acquitted in the year 1999. Though argument were advanced *w.r.t.* observations in para-43 of judgment by Criminal Court, Additional Session Judge, the copy of judgment is not produced on record therefore I am not able to make any observations on the point. When enquiry is completed prior to the judgment by criminal court and evidence discussed above shows that findings of Enquiry Officer are supported by evidence. The subsequent judgments by Criminal Court cannot be a ground to hold that the findings of Enquiry Officer are perverse or illegal. The burden of proof in Domestic Enquiry and criminal case is different. In criminal case, the prosecution is under obligation to prove the offence beyond reasonable doubt. In DE, the burden of proof is based on probabilities and not strictly beyond reasonable doubt. Therefore, I record my finding in Point No. 1 in Affirmative.

10. Point No.-2 the punishment of dismissal is imposed against workman the registration of Union is not produced in Enquiry Proceedings. Any notice for strike or agitations was not given by workman for demand of withdrawal of charge issued to workman, the agitations were taken in the office of Mine Manager, time office, giving slogans for withdrawal of charge sheet, manager was gheraoed that Mine Manager should come out and beg for apology on his toes from workman such demands are unusual resulting to violence is also illegal. The employee doing such acts cannot be shown leniency therefore the order of dismissal does not call for interference. For above reasons, I record my finding in Point No. 2 in Affirmative.

11. In the result, award is passed as under:—

- (1) The action of the Dy. General Manager (Pr.), MOIL, 3, Mount Road Extension, Nagpur (MS) in dismissing the services of Shri Kishan Bopche S/o Tikaram Bopche, *w.e.f.* 26.5.86 is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का.आ. 663.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मोइल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 190/2000) को प्रकाशित करती हैं जो केन्द्रीय सरकार को 20.3.2015 को प्राप्त हुआ था।

[सं० एल-29012/65/2000-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 190/2000) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MOIL and their workman, which was received by the Central Government on 20.3.2015.

[No. L-29012/65/2000-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/190/2000

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Dashrath S/o Tulsi,
Ex-Underground worker of Bharveli,
MOIL, Seoni Camp Bharveli,
Distt. Bangalore (Karnataka) Workman

Versus

The Chairman cum Managing Director,
MOIL, 3, Mount Road Extension,
Nagpur (MS) Management

AWARD

Passed on this 2nd day of March, 2015

1. As per letter dated 24.10.2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-29012/65/2000/IR(M). The dispute under reference relates to:

"Whether the action of the Production Manager Bharveli Mine of MOIL PO Bharveli, Distt. Balaghat (MP) in dismissing the services of Shri Dashrath, S/o Tulsi, Underground worker of Bharveli Mine of MOIL *w.e.f.* 29.9.83 is justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/9. Case of Ist party is that he was working as permanent labour is Balaghat Mine. He was initially engaged as labour in 1975. He was continuously working till date of his dismissal 29.3.83. It is submitted that the labours working inside Bharveli Mine had formed Union in the name of Krantikari Mazdoor Panchayat. Workman had played active role in formation of said Union. Shri Kishan Bopche was elected as general secretary. Mr Kankar Mujare was elected as President. Management and recognized INTUC Union was opposing the formation of said Union in collision with the management. On 11-2-82, it was decided to hold general meeting the labours on 24-6-82. Workman was served with chargesheet. It was decided to protest issuing said chargesheet, arranging meeting at Guest House on 27-6-82. The labours were angry with the chargesheet issued to workman. Labours were seceding and agitating issuance to chargesheet to the workman and withdrawal of chargesheet issued to Kishan Bopche. Management in collision with INTUC labour called large police force. The police had exploded tear gas also resulted to firing causing death of 3 labours. It is submitted that the labours were agitating peacefully demanding withdrawal of charge sheet issued to workman. The activists of INTUC Union had pelted stones.

3. It is further contented that police filed chargesheet bearing Case No. 7,8,9/84 and various offence under labours and workman. Workman was falsely implicated by police in collision with management. Workman was acquitted by criminal court. Management had also issued chargesheet

under different clauses of standing orders. Chargesheet was issued by Dy. General Manager. Workman was dismissed. He was also suspended for more than 3½ years. Workman has contented that statements suitable to the management were manipulated by the management enquiry was not properly conducted. He was not supplied copies of documents. Chargesheet were also issued to other labours. Those labours were dismissed. His dismissal of the labours were challenged in Reference No. 33/84, 60/87. Enquiry conducted in those matters were held illegally by this Tribunal. Same principles be applied to present case. That charges alleged against workman are false. Chargesheet was issued on 30-8-83 signed by Dy. General Manager. Workman had requested that for same allegations, criminal case was prosecuted against him. Enquiry kept in abeyance. However the management conducted enquiry illegally and workman was dismissed on 30-8-83. On such ground, Ist party workman prays for his reinstatement with back wages.

4. IInd party filed Written Statement at Page 7/1 to 7/20 opposing claim of the workman. Preliminary objection is raised that punishment of dismissal was imposed on 38-8-83 vide order dated 1-9-87. Central Govt. had refused to make reference observing that order of dismissal was issued after conducting legal enquiry. Therefore the order of reference is not legal. IInd party quoted ratio held in various cases that on point of delay, the reference is not tenable.

5. IInd party further submits that there were peaceful relation between management and workmen. The disputes were settled through negotiations and discussions. In 1975, there was serious riots in Balaghat. One police station was set on fire, two Inspectors and one constable was burned to death. The Collector, Balaghat was paraded with garland of shoes and chappals, Kankar Munjare who was founder of Krantikari Parishad was responsible for organizing the agitation to attain international attention. He started interfering with the affairs of industrial mine. Shri Kankar Munjare was not a trade Union activist. He wanted to infiltrate in Trade Union as an experiment. As a part of his plan to establish his for hold among workers, meeting was organized on 18-2-82 in front of office of Mine Manager contrary to the rules. Mine Manager knew about proposed meeting. Ist party workman was illegal. He refused permission for meeting any right. Despite of it, workman taken out procession of workers from mine to residence of Mines Manager. Chargesheet was issued to him as per standing orders. Shri Kankar Munjare do not appreciate action of the management, he instigated 300-400 workers to organize violent demonstration. On 27th June 92, workers assembled in front of office of Mine Manager and started violent agitation asking withdrawal of chargesheet issued to workman, that Manager and other officers were gheroad. Labours resulted to stone pelting, giving abuses. Despite of police lathicharge and tear gas, workers did not stop

their violence. Police fired resulting death of 3 persons. It is retreated that workers were asking Manager to give apology to workman. Manager tried to assure that the chargesheet would be withdrawn. Violence was continued at instigation of workman. It is further submitted that chargesheet was issued to workman, enquiry was conducted as per rules. Charges against workman was proved from evidence in enquiry proceedings. Enquiry officer Shri K.N. Tripathi submitted his report. It is denied that enquiry was not properly conducted. It is denied that copies of documents were not supplied to workman. It is denied that Enquiry officer Shri K.N. Tripathi was witness of the incident and as such not competent for appointment as Enquiry Officer. IInd party has referred to ratio held in various cases reiterating that charges proved against workman are of grievous nature. Order of dismissal is proper and legal. The principles of natural justice were followed by Enquiry Officer. IInd party prayed to answer reference in its favour.

6. As per order dated 12-12-12, may predecessor held enquiry conducted against workman is legal. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--|
| (i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings? | Party in Affirmative |
| (ii) Whether the punishment of dismissal imposed against workman is proper and legal? | In Affirmative |
| (iii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

7. Enquiry conducted against workman is found proper and legal. Question remains whether charges alleged against workman are proved from evidence in Enquiry Proceedings. As per Exhibit M-2, chargesheet was issued to workman pertaining to allegation he instigated workers on 27.6.82 for resorting to gherao, abusing Mine Manager, taking out procession, resulting to violence not taking back the agitations and unauthorized absence etc. covered under clause 2a(b)(7)(x), (XII), XV of standing orders. Workman denied charges against him as per reply Exhibit M-3 workman has contented that he was in jail of Balaghat. He was unable to attend Enquiry Proceedings. He was arrested by police on suspicion. That criminal case was registered against him on the same facts enquiry could not be conducted. Management did not find his explanation satisfactorily. Enquiry Officer was Shri K.S. Tripathi. Enquiry was conducted. Workman participated in Enquiry

Proceedings and himself cross-examined the management's witness. Copy of Enquiry Proceedings is produced at Exhibit M-5, Exhibit M-5 shows joint enquiry was conducted against Baba, Heeralal, Sevak, Bhaiyalal, Dashrath and Mangal Singh. Workman pleaded not guilty of the charges against him. Management's witness Babulal admitted as earlier statement read over to him. his evidence in cross-examination shows that the Mine Manager had come out. He was gheraoed from all directions. The agitating labours were asking Manager to get pardon. He was not allowed to go back or ahead. Somebody had given call to stop the Manager. In his further cross-examination, Babulal says that the stones were pelted from western side, Hillok. The labours were taking stones from Hillok and pelting it. The land towards canteen side was having some height, so he was calling it Hillok. The witness has re-affirmed of pelting stones by labours. The labour did not stop violence even after intervention by Sub Divisional Magistrate. The cross-examination of witness further shows that fire was set to Survey Office. The curtains were destroyed by fire. He was at Mines office till 4 AM. He had seen smoke at windows. When teargas was exploded and there was lathicharge, he was not accompanying police. That after resorted to firing, he ran towards rest house. After the violent acts were stopped, he has seen burnt curtains. The violent acts continued till 2.30 PM.

8. Management's witness in his further cross-examination says that he had seen labours participating the agitation. He was knowing their names. When stones were pelted, he was at distance of 5 feet from Varandah. Management's witness Rewaram also supported evidence about violent acts committed by the agitating labours. His evidence in cross-examination was not shattered. Witness Babulal was unable to tell the names of labours pelting stones but he reaffirms that the facts recorded in his statement are correct. Rewa Ram in his cross has also said that the glass of the office window were broken. The violent acts of the labours were not stopped even after intervention by police. The witness of management during their cross-examination have given the locations stones were pelted, abuses given. The suggestion that Union activist of INTUC had resorted to pelting stones are denied. To be precise, Rewa Ram in cross-examination says that he was working from 1971. He had come to the place of scene obtaining permission of foreman that he had studied upto matriculation. He come to the headquarter office for taking tea. After looking to the incident, he stopped at the place. He heard agitators are demanding withdrawal of chargesheet issued to workman said witness says that he was member of INTUC Union. More than 1000 labours had participated in the agitations. He attended place of scene around 9 AM. In this further cross-examination, he says he had seen agitations near office mine. He identified workman as he was acquainted with him. Police had come from Balaghat. He identified Magistrate as other people were

saying he was the Magistrate. That he had seen higher officers coming to the place of scene. The pleading of both parties are clear that when violence was not stopped, the police resorted to firing and 3 persons died in police firing. The officers were gheraoed from all sides by labours. The police resorted to firing on labours as Ist party workman and other persons of his group were intending to beat the higher officers to take revenge. The evidence of Shri Rewa Ram on the point of violent acts omitted is not shattered in his cross-examination. However he was unable to tell exact time of lathicharge. He was unable to tell on whom police had fired. After police resorted to firing, he was hiding at the place. The bullets were fired by police by side of time office. When stones were pelted, noise was heard at the window. The noise of firing was also heard by him. The witness had admitted his statement read over to him. In his further cross-examination, witness says he was standing at the floor near office of Mine Manager. Other witnesses of management Janglu, Babulal confirmed incident of pelting stones and firing by police. Their evidence was not shattered in their cross-examination. Janglu Babulal was Security Guard. In his cross-examination, he says that he was not having any arms but he was having only cane in his hand. When about 125 labours came agitating near mines office, he was standing in the verandah of Mines Office. The labours were giving slogans from 8 AM to around 2.30 PM. the agitators were giving slogans for withdrawal of chargesheet issued to workman. Police had come around 8 AM. The witness was unable to tell their names. Management's witness No. 3 Shri C.V. Patel Head time keeper corroborated evidence of earlier witnesses. His evidence is also devoted on point of Ist party workman marking absent from 9.6.82 to 8.11.82.

9. The management's witness Janglu Babulal in his further cross-examination says that he had not seen workman letting fire. That presently said witness had no enmity with workman the agitating workman were giving slogans outside office for withdrawal of chargesheet issued to workman. The evidence in Enquiry Proceedings clearly shows that chargesheet issued to workman, the agitations were started, workman was among the agitators. The labours in procession resorted to violence. The agitations and violation were not stopped even after intervention by police and Magistrate. The act of resorting to violence for any kind of demand cannot be justified so far as charge No. 3 regarding unauthorized absence after justified, workman was arrested by police and released after about 3 1/2 months. During period of his detention, workman could not attend duty therefore absence of duty of workman cannot be said willful. The findings of Enquiry Officer *w.r.t.* charge No. 3 cannot be said proper and legal. Rest of the charges are proved from evidence in Enquiry Proceedings.

10. Management's witness Babulal in his cross-examination by workman says that he not stated that persons were having wooden logs or stones. Agitators

were giving forceful slogans, the agitating labours had gheraved officers from all sides. That he was on duty. It was not expected of him to stand idle. His evidence discussed above squarely proves charges of violent agitation resulting to stone pelting for demand of withdrawal of chargesheet issued to workman the evidence of defence witnesses also confirm the violent agitations by the labours. The enquiry was completed in 1986 and workman was dismissed as per argument advanced, the criminal case was subsequently prosecuted and workman was acquitted in the year 1999. Though argument were advanced *w.r.t.* observations in para-43 of judgment by Criminal Court, Additional Session Judge, the copy of judgment is not produced on record therefore I am not able to make any observations on the point. When enquiry is completed prior to the judgment by criminal court and evidence discussed above shows that findings of Enquiry Officer are supported by evidence. The subsequent judgments by Criminal Court cannot be a ground to hold that the findings of Enquiry Officer are perverse or illegal. The burden of proof in Domestic Enquiry and criminal case is different. In criminal case, the prosecution is under obligation to prove the offence beyond reasonable doubt. In DE, the burden of proof is based on probabilities and not strictly beyond reasonable doubt. Therefore, I records my finding in Point No. 1 in Affirmative.

11. Point No.-2 the punishment of dismissal is imposed against workman the registration of Union is not produced in Enquiry Proceedings. Any notice for strike or agitations was not given by workman for demand of withdrawal of charge issued to workman, the agitations were taken in the office of Mine Manager, time office, giving slogans for withdrawal of chargesheet, manager was gheraoed that Mine Manager should come out and beg for apology on his toes from workman such demands are unusual resulting to violence is also illegal. The employee doing such acts cannot be shown leniency therefore the order of dismissal doesnot call for interference. For above reasons, I record my finding in Point No. 2 in Affirmative.

12. In the result, award is passed as under:—

- (1) The action of the Production Manager Bharveli Mine of MOIL PO Bharveli, Distt. Balaghat (MP) in dismissing the service of Shri Dashrath, S/o Tulsi, Underground worker of Bharveli Mine of MOIL, *w.e.f.* 29.9.83 is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 27 मार्च, 2015

का०आ० 664.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीमेंट कारपोरेशन ऑफ इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 63/01) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/03/2015 को प्राप्त हुआ था।

[सं० एल०-29012/138/2000-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 27th March, 2015

S.O. 664.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 63/01) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cement Corporation of India Limited and their workman, which was received by the Central Government on 20/03/2015.

[No. L-29012/138/2000-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/63/01

Shri Dharendra Singh S/o Sukh Nidan Singh,
PO & Vill Darautalapur,
Distt. Fatehpur (UP)

... Workman

Versus

Zonal Manager,
Cement Corporation of India Ltd.,
Samsthargat Office Complex,
Off Mahul Road,
Opp Ashish Theatre, Chembur,
Mumbai

... Management

AWARD

Passed on this 26th day of February 2015

1. As per letter dated 30-03-01 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-29012/138/2000-IR (M). The dispute under reference relates to:

"Whether the action of the management of Cement Corporation of India Ltd. Indore by verbally terminating the services of Shri Dharendra Singh w.e.f. 21.8.99 and non-payment of bonus for the year 97-98, 98-99 is justified or not? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/8. Case of workman is that he was employed by IInd party from 6-8-96. He was retrenched by verbal order w.e.f. 21-8-99. No retrenchment order in writing was given to him. He was not paid retrenchment compensation, any reasons for compensation were not given to him. Workman had written 3 letter to Regional Manager, its copy was addressed to Zonal Manager. Even after receipt of letter by Regional Manager, any response was not received. That he worked for more than 3 years 15 days continuously. He completed 240 days continuous service during each of the year. His services were terminated without notice in violation of Section 25-F(a,c). That he was paid salary Rs. 1836/- in 1996 to 99. The salary was increased to Rs. 3021 from April 99. That SAIL office Indore was raised to the status of Regional office in October 88 and additional posts were created. Persons junior to the applicant are still continuing. It is reiterated that he was not paid retrenchment compensation and junior persons were continued. That there are no standing orders, the employee can be described as adhoc employee. As there are no standing orders of Cement Corporation of India, Model standing orders apply to IInd party. Zonal office at Bombay had ordered Indore to fill his PF form as per letter dated 11-5-99. His PF was deducted from January 99. He was regularly receiving wages without reduction. Ist party workman reiterates that retrenchment of his service is illegal. He prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 11/1 to 11/9 opposing claim of workman. IInd party submits that it is engaged in production of cement. It was running factory at Nayagaon including some factory at MP i.e. Neemuch, Akaltara and Nandan. That for purpose of sale proceedings various offices were established. That due to various reasons, company was forced to stop production. The factories in MP were closed for non-production of sales offices at various places including Indore were closed. The dispute is not tenable. That cement industry is scheduled industry at MPIR Act. The dispute raised under provisions of ID Act is not tenable. That IInd party has become sick company under Section 15 of Sick Industry Company's Act 1985. The reference was made to Board of Industry and Financial reconsideration. The management of company was declare as Sick Industry. The dispute is not tenable. That during 1995-96, management sold 36000 metric tonnes cement to improve sales and to keep contact with customers. Workman was engaged for miscellaneous jobs on casual basis. Workman was engaged for 89 days. He was paid minimum wages. The application submitted by workman for difference of wages. Workman was engaged for casual work. His engagement on contractual is covered under Section 2(00)(bb) of ID Act. For regular recruitment, IInd party has policy. The vacancies are notified to employment exchange as a staff gap arrangement. It is denied

submitted that workman was engaged on daily wages for specific period of 89 days. The workman was not continued as job was not available. His discontinuation does not amount to retrenchment. Workman has not disclosed names of the workers continued in employment. IInd party referred to ratio held in different cases. It is reiterated that as workman was engaged on contractual basis for job of casual nature, he is not entitled to protection under Section 25-F of ID Act. The action of the management is proper and legal.

4. The evidence was adduced by parties. My predecessor had passed award dated 15-6-09 in favour of Ist party workman holding that Ist party is entitled for reinstatement with back wages.

5. Said award was challenged by IInd party in W.P. No. 9348 of 2009. Hon'ble High Court remanded the matter as per judgement dated 4-5-2011. Questions to be decided is whether department of Corporation hold a separate industry for purpose of applicability of 1960 Act or Cement Corporation as a whole be treated as sick industry for that purpose. The impugned award has been quashed allowing the petition.

6. After remand of matter, parties did not adduce any evidence. The questions arise as under:—

- | | |
|--|----------------------|
| (i) Whether the establishment of IInd party is governed by the provisions of MPIR Act or ID Act. | In a Negative |
| (ii) If so, whether action of the management in terminating the services of Shri Dharendra Singh w.e.f. 21-8-99 and non-payment of bonus for the year 97-98, 98-99 is justified? | In Negative. |
| (iii) If not, what relief the workman is entitled to?" | As per final orders. |

REASONS

7. Point No. 1- As stated above, both parties did not adduce any evidence after remand of matter. During course of argument, there was no dispute that Ist party was working in Sales Depot at Indore. There was also no dispute between parties that the cement factories have been closed prior to termination of service of workman. The counsel for both parties advanced limited arguments whether establishment of IInd party is covered by MPIR or ID Act. In cross examination, IInd party establishment is governed by MPIR Act, the Ist party workman would not be entitled to protection of the provisions of ID Act. Consequently he would be entitled to relief of reinstatement with back wages granted by my predecessor.

8. Cement Factory is included in schedule of MPIR Act 1960 at Sl. No. 7. said position was not in dispute between counsel for the parties. Industry is defined under MPIR Act as—

"Industry means (a) business trade, manufacture, undertaking or calling of employers, (b) any calling, service, employment, handicraft or industrial occupation or a vocation of employees and includes - agriculture and agricultural operations, any branch of an industry or group of industries which the State government may by notification declare to be an industry for the purpose of this Act.

"9. Learned counsel for workman Shri R.C. Shrivastava relies on ratio held in Case of Jamul Cement Works, Jamul versus President, State Industrial Court, MP Indore and others reported in 1968 MPLJ 1968- Pg. 35. Their Lordship of the Division bench of MP High Court dealing with notification issued under Section 1(3) making MPIR act applicable to Cement Industry held that the constructional work of the setting up of a cement factory not being an industry as defined in Section 2(19) of the Act, or a part of the Cement Industry, the employees working on the constructional side cannot be regarded as "employees" within the definition of the term given in Section 2(13) of the Act.

In present case, there is no evidence that the sales depot at Indore was part of the Cement Industry. It cannot be said industry as defined under Section 2(19) of the Act. That construction site of Cement Factory was not held industry under said section. The sale depot at far away place at Indore cannot be said cement factory and therefore in my considered view, the provisions of MPIR Act are not applicable. Sale depot *i.e.* estt. of IInd party at Indore is covered by provisions of ID Act. Accordingly I record my finding in Point No. 1.

10. Point No. 2- during course of argument, there was no dispute if provisions of ID Act are applicable, the workman would be entitled to relief already granted. In fact no argument are advanced by counsel for parties on merits of the matter. My learned predecessor has framed issues whether workman had completed 240 days continuous service, whether workman was engaged on daily wages for a fixed period and whether termination/retrenchment without complying provisions of Section 25 of ID Act. The evidence was discussed by my predecessor including documents. It was observed that there was no specific denial on part of management in respect of documents Paper No. 6/11 & 6/21, Paper No. 12/12 to 12/15. Workman in order to prove he worked continuously for 3 years 15 days since 6-8-96 without break. In absence of any specific denial of the management, it is established that the workman was not engaged for a fixed period rather he was allowed to continue his work and his service was continuous. He completed 240 days continuous service. Workman was

terminated orally without issuing notice, he was not paid retrenchment compensation. Termination of service of workman is in violation of Section 25-F of ID Act. Therefore termination of service of workman is illegal. I therefore record my finding in Point No. 2 in Negative.

11. Point No. 3- My learned predecessor had granted reinstatement with backwages. Absolutely no argument are advanced by counsel for parties. Therefore I find no reason to take different view. Workman is entitled for reinstatement with back wages from 21-8-99. Accordingly I record my finding in Point No. 3.

12. In the result, award is passed as under:—

- (1) The action of the management of Cement Corporation of India Ltd. Indore by verbally terminating the services of Shri Dharendra Singh *w.e.f.* 21-8-99 and non-payment of bonus for the year 97-98, 98-99 is not legal.
- (2) Workman is entitled to reinstatement with continuity of service with backwages.

R. B. PATLE, Presiding Officer